

PERSONNEL

POLICIES
*for the Kentucky Court
Of Justice*





Personnel Department
Administrative Office of the Courts
100 Millcreek Park, Frankfort, Kentucky 40601
p 502-573-2350 • f 502-573-1663
<http://intranet.kycourts.net>



A Message From the Chief Justice

I am pleased to introduce the newly revised personnel policies for the Kentucky Court of Justice. It is my hope that these policies will provide clear and effective guidance to those employed by the state's court system.

The 3,400 men and women statewide who carry out the solemn responsibilities of the Court of Justice support the U.S. and Kentucky constitutions, believe that all citizens deserve the security and peace guaranteed by a fair application of justice, and work tirelessly to see that all people stand equally before the law.

I commend your dedication and invite you to continue to work together on this sacred endeavor.

*Joseph E. Lambert
Chief Justice of Kentucky*



Administrative Office of the Courts
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Frankfort, Kentucky 40601
502-573-2350 or 800-928-2350
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The Kentucky Court of Justice does not discriminate on the basis of race, color, national origin, sex, sexual orientation, religion, age, disability, or political affiliation in employment. The Court of Justice Personnel Policies are available in an accessible format upon request to the Human Resources Administrator of the Department of Personnel at the Administrative Office of the Courts.

Supreme Court of Kentucky

2005-03

ORDER

**IN RE: AMENDMENTS TO THE RULES OF ADMINISTRATIVE PROCEDURE
 AP PART III. PERSONNEL POLICIES**

Pursuant to Sections 110(5)(b) and 116 of the Constitution of Kentucky, it is HEREBY ORDERED that Part III of the Rules of Administrative Procedure are hereby deleted in their entirety and shall be replaced by the Personnel Policies attached hereto and made a part of this ORDER.

Entered this the 24th day of May, 2005.

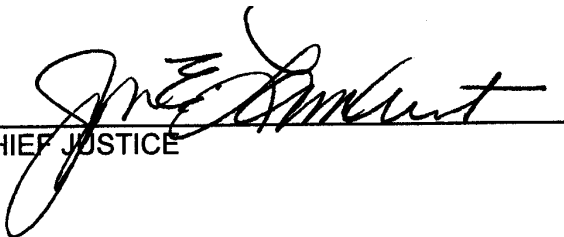

CHIEF JUSTICE

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SECTION 1. General Information

SECTION 1.01 Administration of Policies

The personnel administration of the Court of Justice shall be governed by these published Policies.

SECTION 1.02 Applicability of the Policies

These Policies are applicable to all employees in the Court of Justice unless specific exceptions are clearly delineated.

SECTION 1.03 Definitions

As used throughout these Policies, the following definitions shall apply:

- (1) "Appointing authority" means an individual who is authorized to act on behalf of an agency or office of the Court of Justice with respect to appointments, position actions, payroll documents, leave requests and disciplinary actions, including dismissal, of employees and/or appointed officials. The AOC Director is the appointing authority for personnel at the Administrative Office of the Courts. The elected official is the appointing authority for the personnel in his or her office.
- (2) "Appointed official" means an individual who is appointed as a trial commissioner, domestic relations commissioner or master commissioner in the Court of Justice.
- (3) "Elected official" means an individual who is elected to a constitutional office in the Court of Justice.
- (4) "Employee" means an individual hired into a position in the Court of Justice, whether tenured or non-tenured, for which he or she is compensated on a full-time or part-time basis.
- (5) "Non-tenured" means an employee shall serve at the pleasure of their appointing authority and does not have grievance and appeal rights.
- (6) "Tenured" means an employee who is not exempt from tenure pursuant to Section 1.05 of these Policies and has grievance and appeal rights as in Section 8 of these Policies.
- (7) "Chief deputy clerk" means a deputy clerk who has the requisite abilities and knowledge of the operation of the Circuit Clerk's Office to serve in a non-tenure, general supervisory capacity in relation to all other deputy clerks. The individual who is selected as the chief deputy clerk must formally accept such designation in writing, a copy of which shall be sent to the Personnel Administrator at the Administrative Office of the Courts and placed in that individual's personnel file.
- (8) "Family" means the employee's spouse, mother, father, grandparent, son or daughter, or a person of similarly close relationship defined as: (1) one who has resided with the

employee for at least thirty (30) days prior to application; or, (2) one for whom the employee is legally responsible.

- (9) "Immediate family" means a group of individuals who are related by blood, adoption, or marriage within the first degree of kinship.

SECTION 1.04 Elected and Appointed Officials

- (1) These Policies are not applicable to elected and appointed officials in the Court of Justice unless specific exceptions are clearly delineated.
- (2) Appointed officials shall serve at the pleasure of their appointing authority.

SECTION 1.05 Non-Tenured Employees

- (1) The following sections of these Policies shall not apply to non-tenured employees:

Section 3.01.	Equal Employment;
Section 4.01(1).	Probationary Appointment;
Section 4.06(1).	Probationary Increments; and
Section 8.	Separations; Disciplinary Actions, and Appeals.

Non-tenured employees shall not serve a probationary period. Further, a non-tenured employee shall not receive a probationary increment, nor have the right to appeal disciplinary actions.

- (2) Non-tenured employees shall serve at the pleasure of their appointing authority.
- (3) The following Court of Justice positions which are non-tenured, include but are not limited to the following:
- (a) Judicial staff including secretaries, law clerks, staff attorneys who are acting in the capacity of law clerks, court reporters who were hired after February 24, 1989, and family court case specialists who were hired on or after September 1, 2004;
 - (b) Regional court administrators, trial court administrators, family court administrators and staff for each;
 - (c) Chief deputy clerk(s) for each Circuit Clerk as designated in writing by the Circuit Clerk;
 - (d) Principal administrative officials of the Supreme Court, Court of Appeals, and special administrative assistants of the Chief Justice. Principal administrative officials of Administrative Office of the Courts as follows: the director, deputy director, assistant director, general counsel, deputy general counsel, general managers, assistant general managers, managers, executive assistants;
 - (e) Federally funded, time-limited positions;
 - (f) Temporary employees;

- (g) Student interns; and,
 - (h) Other individuals so designated in writing upon appointment.
- (4) Exceptions to Section 1.05(3):
- (a) Principal administrative officials of the Supreme Court, Court of Appeals, and Administrative Offices of the Courts, special administrative assistants of the Chief Justice, and court reporters/judicial secretaries who assumed their positions prior to January 1, 1981, with the express understanding that they are tenured, and the right to appeal grievances shall continue to be so protected in their present positions.
 - (b) Court reporters who assumed their positions prior to February 24, 1989, with the express understanding that they have tenure, and the right to appeal grievances shall continue to be so protected in their present positions.
 - (c) Family court case specialists who assumed their positions prior to September 1, 2004, with the express understanding that they have tenure, and the right to appeal grievances shall continue to be so protected in their present positions.
- (5) Non-tenured employees shall sign the Non-Tenured Status Acknowledgment Form and submit same to the AOC Personnel Administrator.

SECTION 1.06 Tenured Employees

- (1) All employees who are not exempt from tenure pursuant to Section 1.05 of these Policies shall serve a six (6) month probationary period unless extended by their appointing authority. An employee shall attain tenure status upon successful completion of his or her probationary period.
- (2) Tenured employees shall receive a probationary increment upon completion of probationary appointment and at such time shall have the right to appeal grievances.
- (3) An employee who moves from a federally funded time limited position to a permanent tenured position shall serve the probationary period and receive an increment as provided in subsections (1) and (2) above.

SECTION 2. Code of Conduct

SECTION 2.01 General

- (1) A judiciary, which upholds high standards of integrity, impartiality, and independence, is indispensable to justice in our society. As public servants, employees of the Court of Justice have a duty to manage their professional and personal affairs to maintain and promote public confidence in the judicial system. Therefore, employees must avoid situations that might lead to conflict, the appearance of conflict, or the appearance of impropriety between self-interest and their duty to the courts and the general public.
- (2) This Code of Conduct shall be the standard for all persons working within the Court of Justice, including appointed officials. For issues that are not explicitly addressed in the Code of Conduct, the appointing authority shall be consulted in an effort to resolve the issue.
- (3) Any violation of this Code of Conduct may result in disciplinary action, up to and including dismissal.

SECTION 2.02 Confidential Information

- (1) Confidential information includes, but is not limited to:
 - (a) Information required to be kept confidential pursuant to federal law, state law, court rule, administrative regulation, or court order, including but not limited to, social security number, date of birth, and medical information;
 - (b) Information on pending cases not already a matter of public record; and,
 - (c) Information concerning the work of any judge, law clerk, staff attorney, or other employee or appointed official, including but not limited to, notes, papers, memoranda, discussions, and electronic communication such as e-mail and internet discussion forums.
- (2) Professionalism requires employees to exercise discretion in their conversations with other persons and in their comments concerning experiences at the Court of Justice to avoid the appearance of partiality or inappropriate access.
- (3) Employees shall not:
 - (a) Use confidential information for personal gain or the personal gain of any other person; nor,
 - (b) Disclose confidential information acquired during the course of employment except as required in the performance of official duties.
- (4) Court of Justice records and documents shall not be removed from judicial property without proper authorization from the appointing authority, or his/her designee.

- (5) Employees shall:
 - (a) Avoid making public comment on the merits of a pending or impending action;
 - (b) Not initiate or repeat ex parte (out of court) communications with litigants, witnesses or attorneys to judges, jury members or any other person, unless necessary for legitimate procedural reasons associated with the discharge of official duties; and,
 - (c) Refer all media requests to their appointing authority.
- (6) Employees may respond to inquiries concerning court procedures from the public but shall not provide legal advice.

SECTION 2.03 Performance of Duties

- (1) Employees shall perform official duties diligently during working hours.
- (2) Employees shall perform their duties impartially:
 - (a) With courtesy and respect for the public and co-workers; and,
 - (b) Without bias or prejudice, manifested by words or conduct, based upon race, ethnic origin, color, creed, religion, gender, sexual orientation, age, disability or political affiliation.
- (3) Employees are encouraged to maintain and improve their personal and professional growth and development, and that of their co-workers through cooperation and participation in educational programs relevant to their duties.

SECTION 2.04 Court of Justice Property and Resources

- (1) Employees and officials shall use public resources, property, and funds under their control for the public purpose intended by the law. This section applies with equal force to elected and appointed officials.
- (2) Computers, software, voice mail, Internet access, and electronic mail (e-mail) are to be used in a responsible, efficient, ethical, and legal manner. Elected officials, appointed officials, and employees should familiarize themselves with the Kentucky Court of Justice Computer, Software, Voice Mail, Internet Access and Electronic Mail Usage Policy.
- (3) The Court of Justice policy prohibiting offensive, intimidating or harassing material in the workplace applies with equal force to material accessed by, communicated through, or stored upon electronic systems.

SECTION 2.05 Abuse of Position

- (1) Employees shall avoid all conduct which may give the appearance or be construed by members of the general public that employees are using their position with the Court of Justice to further private interests.

- (2) No employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions.
- (3) Examples of unwarranted privileges or exemptions include, but are not limited to:
 - (a) Accepting, soliciting, or agreeing to accept any gift, favor or anything of value with the understanding that the official actions, decisions or judgment of any employee or official will be influenced.
 - (b) Requesting or accepting any fee or compensation beyond that received by the employee in his or her official capacity for advice or assistance provided as part of his or her public employment.
- (4) No member of an employee's family, as defined in Section 1.03, shall accept, solicit, or agree to accept any gift, favor or anything of value with the understanding that the official actions, decisions or judgments of any employee and official will be influenced.

SECTION 2.06 Conflict of Interest

- (1) A conflict of interest or its appearance can seriously undermine the public's confidence and trust in the judiciary. Every Court of Justice employee has an obligation to identify, avoid, or manage conflicts of interest.
- (2) Employees shall disclose any actual or potential conflicts of interests to their appointing authority for resolution.
- (3) The following is a list of situations in which an actual or potential conflict may exist. This is not an exclusive list.
 - (a) An employee or a member of his or her family is directly or indirectly impacted financially, whether favorably or detrimentally, by a decision made by the Court of Justice.
 - (b) An employee is involved in the decision to hire or in the supervision of a member of his or her family.
 - (c) An employee participates in decisions regarding conduct of court business with a private party with whom the employee, or his or her family member, is employed or is actively seeking employment.

SECTION 2.07 Practice of Law

While holding their positions in the Court of Justice, employees shall not engage in the practice of law in any court of this Commonwealth without the express consent of the Director of the Administrative Office of the Courts.

SECTION 2.08 Outside Employment of Full-time and Part-time Employees

- (1) The Court of Justice shall be the primary employer of each full-time employee.

- (2) Due to the obligation of all Court of Justice employees to maintain and promote public confidence in the judicial system, outside employment is subject to review for conformance to this Code of Conduct.
- (3) All Court of Justice employees are prohibited from:
 - (a) Outside employment which creates a conflict of interest, potential conflict of interest, or the appearance of a conflict of interest.
 - (b) Outside employment which cannot be accomplished outside the employee's normal working hours, or is otherwise incompatible with the performance of the employee's judicial duties.
 - (c) Outside employment with an entity that conducts financial business with the Administrative Office of the Courts, regularly appears in court, or requires the employee to have frequent contact with attorneys who regularly use the court system.
 - (d) Performance of work for any state governmental entity within the Commonwealth of Kentucky without the written consent of both employers.
 - (e) Outside employment which takes advantage of the employee's position with the Court of Justice or confidential information acquired in the performance of judicial duties for personal gain.
 - (f) Engaging in the practice of law in any court of this Commonwealth without the express consent of the Director of the Administrative Office of the Courts.
 - (g) Receiving payment that is over and above the employee's regular salary for transcribing official court proceedings and the performance of free-lance reporting unless the employee is employed as a reporter/secretary or court reporter.
- (4) Written Request
 - (a) All employees who wish to engage in outside employment shall provide a written request to their appointing authority and must receive written approval prior to accepting such employment.
 - (b) All new employees who wish to continue their outside employment shall provide a written notification of such employment to their appointing authority at the start of their employment with the Court of Justice and must receive written approval to continue such employment. New employees engaged in outside employment determined not to be in conformance to this Code of Conduct shall be required to cease such employment.
 - (c) The written requests and notifications for approval of outside employment must contain the following information:
 - (i) Name, address, and phone number of outside employer;

- (ii) Duties and responsibilities of the position; and
- (iii) Scheduled work hours for each week.

(5) Approval or Denial of Request

- (a) If the appointing authority determines that the outside employment request is in conformance with this Code of Conduct, the appointing authority shall provide approval of the outside employment in writing to the requesting employee. A copy shall be sent to the Human Resources Administrator at the Administrative Office of the Courts and placed in that employee's personnel file.
- (b) In the event the appointing authority determines that the outside employment is not in compliance with this Code of Conduct, the requesting employee may appeal this determination using the Appeal and Grievance Procedures in Section 8 if he or she is a tenured employee under Section 1 of the Policies.

(6) Change in Outside Employment Status

All employees holding approved outside employment shall promptly notify their appointing authority in writing when a change in their outside employment status occurs. Written notification of a change in outside employment status shall be made when any of the following occurs:

- (a) Change in the identity of the outside employer;
- (b) Substantial change in the duties or responsibilities of the outside employment;
- (c) Substantial change in work schedule and hours of the outside employment; or,
- (d) Reasonable belief that an actual or potential conflict of interest, as specified in Section 2.06 of the Policies has developed.

SECTION 2.09 Political Activities

(1) Political Contributions and Campaigns

- (a) No employee in the Court of Justice shall be coerced nor required by any person(s) to make any contribution or pay any assessment for political purposes.
- (b) No employee in the Court of Justice shall be coerced to solicit or take part in soliciting any political assessment, subscription, contribution or service.
- (c) No appointive employee in the Court of Justice can campaign on behalf of candidates for the office of Supreme Court Justice, Court of Appeals Judge, Circuit Court Judge or District Court Judge. Exceptions:
 - (i) secretaries for judges in all courts;

- (ii) law clerks and staff attorneys (acting in the capacity of law clerks) for judges in all courts;
- (iii) one chief deputy clerk for each Circuit Court Clerk as designated by the Circuit Clerk;
- (iv) one additional chief deputy clerk for each 15 deputy clerks employed by each Circuit Court Clerk as designated by the Circuit Clerk;
- (v) a member of the family (by blood or marriage) of the appointing authority within the third degree of kinship, hired after February 24, 1989;
- (vi) principal administrative officials of the Supreme Court and the Court of Appeals, and special administrative assistants to the Chief Justice;
- (vii) trial commissioners;
- (viii) master commissioners;
- (ix) temporary employees;
- (x) court reporter/secretaries;
- (xi) court reporters hired after February 24, 1989;
- (xii) trial court administrators.

(2) Political Office

- (a) All employees of the Court of Justice appointed pursuant to KRS Chapter 27A, KRS 30A.020-30A.050, KRS 30A.300 to 30A.310 shall terminate their employment prior to filing for election to any partisan political office or the office of judge or justice of the Court of Justice, except for the chief deputy clerk, as defined in Section 1.03 of the Policies.
- (b) Employees who seek to hold any other nonpartisan office are not required to terminate their employment prior to filing for election to any nonpartisan office as long as campaigning does not interfere with the performance of their duties. Any employee who intends to seek other nonpartisan office shall notify the Personnel Administrator prior to filing for election.
- (c) Pursuant to Kentucky Constitution §165 and KRS 61.080, there are certain offices considered incompatible by law. When considering any elected or appointed political office, these sources must be consulted. Acceptance of an incompatible office voids the first office as a matter of law.

SECTION 3. Work Place Policies

SECTION 3.01 Equal Employment

(1) Statement of Policy

- (a) Equal employment opportunities shall be provided throughout the Court of Justice in all employment practices, including recruitment, appointment, job assignment, promotion, compensation, training and fringe benefits, without regard to race, national origin, color, religion, gender, age, disability, sexual orientation, or political affiliation.
- (b) The purpose of this policy is to promote and assure equitable treatment of all persons who are now employed, being considered for employment, seeking employment, or who may be recruited for employment in the future.
- (c) This policy applies with equal force to elected and appointed officials.

(2) Implementation of the Equal Employment Opportunity Policy

The Director of the Administrative Office of the Courts (AOC Director) maintains responsibility for the implementation of the Court of Justice Equal Employment Opportunity Policy.

SECTION 3.02 Workplace Harassment

(1) Statement of Policy

- (a) It is the policy of the Court of Justice to provide a work environment free of unlawful harassment and/or retaliation based on race, color, religion, gender, national origin, age, disability, sexual orientation and political affiliation. Harassment based on race, color, religion, gender, national origin, age, and disability is a violation of Title VII of the Civil Rights Act of 1964, as amended, and KRS 344.040 of the Kentucky Civil Rights Act.
- (b) Any employee found to have engaged in any form of unlawful harassment in the course of his or her employment shall be subject to appropriate disciplinary action up to and including termination of employment.
- (c) This policy applies with equal force to elected and appointed officials. Any official found to have engaged in any form of unlawful harassment in the course of his or her appointment or elected term shall be referred to the appropriate official disciplinary body.

(2) Definitions

For the purpose of this policy, the following definitions shall apply:

- (a) “Unlawful Workplace Harassment” is unwelcome or unsolicited speech or conduct based upon race, color, religion, gender, national origin, age, disability, sexual orientation, or political affiliation that creates a hostile work environment.
- (b) “Hostile Work Environment” is one wherein a reasonable person would consider the environment to be hostile or abusive; and, the person who is the object of the harassment perceives the environment to be hostile or abusive. A hostile work environment is determined by looking at all of the circumstances including, but not limited to: (1) the frequency of the alleged harassing conduct; (2) the Severity of the alleged harassing conduct; (3) whether the alleged harassing conduct was physically threatening or humiliating; and, (4) whether the alleged harassing conduct unreasonably interfered with an employee’s work performance.
- (c) “Quid Pro Quo Harassment” consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:
 - (i) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or,
 - (ii) Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual.
- (d) “Retaliation” is adverse treatment that occurs because of opposition to unlawful workplace harassment.

(3) Forms of Unlawful Workplace Harassment

Workplace harassment may take the following forms, but are not limited to:

- (a) Verbal
 - (i) Jokes that have the purpose or effect of stereotyping, demeaning, or making jest of an individual based upon race, color, religion, gender, national origin, age, disability, sexual orientation, or political affiliation.
 - (ii) Derogatory comments and/or slurs about an individual’s race, color, religion, gender, national origin, age, disability, sexual orientation, or political affiliation.
 - (iii) Verbal innuendo that relates to or reflects negatively on a particular race, color, religion, gender, national origin, age, disability, sexual orientation, or political affiliation.
- (b) Nonverbal
 - (i) Display, including distribution or communication through electronic systems, of photographs, literature, cartoons, calendars, or graffiti which is degrading to or reflects negatively on a particular race, color, religion, gender, national origin, age, disability, sexual orientation, or political affiliation.

- (ii) Making sexually suggestive or insulting noises, or sexually obscene gestures.
- (iii) Arranging to be alone with a person for the purpose of making sexual advances.
- (iv) Non-verbal innuendo that relates to or reflects negatively on a particular race, color, religion, gender, national origin, age, disability, sexual orientation or political affiliation.

(c) Physical

Touching, pinching, or brushing the body; kissing; assault; or, coercing sexual contact.

(4) Patterns of Unlawful Workplace Harassment

In accordance with the Equal Employment Opportunity Commission, the Court of Justice recognizes that unlawful workplace harassment may occur in a variety of circumstances and encompass many variables including, but not limited to, the following considerations:

- (a) A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.
- (b) The victim does not have to be a different race, color, religion, gender, national origin, age, disability, sexual orientation or political affiliation from the harasser.

(5) Implementation of Policy

(a) Court of Justice Harassment Complaint Panel (COJ HCP)

- (i) Pursuant to the authority of the AOC Director of the Court of Justice, the AOC Director hereby designates the Court of Justice Harassment Complaint Panel (COJ HCP) as the body to address complaints under this unlawful workplace harassment policy throughout the Court of Justice.
- (ii) The COJ HCP shall be comprised of the Human Resources Administrator at the Administrative Office of the Courts (AOC Human Resources Administrator) who shall serve in the capacity as Chair, one (1) elected circuit clerk to be appointed by the president of the Circuit Clerks' Association, one (1) manager or supervisor, and two (2) non-supervisory employees. In addition to the members of the COJ HCP, there shall also be one (1) manager or supervisor and one (1) non-supervisory employee designated as alternates in the event a member is unavailable to serve due to a conflict. The composition of the panel and alternates shall be diverse, as far as practical, in terms of race and gender.
- (iii) The panel members and alternates, except for the Chair, shall be appointed by the AOC Director and serve a four (4) year term.

(iv) The panel is authorized to retain an outside investigator if the necessity for same is approved by the Office of General Counsel.

(b) All employees and officials shall receive periodic training on unlawful workplace harassment policy.

(6) Reporting Unlawful Workplace Harassment

(a) The Court of Justice is committed to prohibiting unlawful workplace harassment before it rises to the level of a violation of state or federal law. Employees and officials of the Court of Justice are strongly encouraged to report incidents of unlawful workplace harassment to the AOC Human Resources Administrator.

(b) The COJ HCP shall protect the confidentiality of unlawful workplace harassment allegations to the extent permitted by law.

(7) Retaliation Prohibited

No employee or official of the Court of Justice shall use retaliation or reprisal against an employee or official reporting or corroborating unlawful workplace harassment.

(8) Complaint Process

(a) Any employee or official of the Court of Justice who has a work related unlawful workplace harassment claim shall, immediately or as soon as practicable, following the incident, notify the AOC Human Resources Administrator. In the AOC Human Resources Administrator's absence, the Office of General Counsel shall be notified. In the event that the person directed by this section to be notified is the alleged harasser, then the employee or official shall notify the AOC Director. The charging party shall make the claim verbally or in writing. If the complaint is initiated verbally, the complainant shall prepare a written complaint and submit same within two (2) business days following the verbal complaint, to the person to whom verbal notification of the allegations was provided.

(b) The person, as identified in (a) of this section, to whom the claim is presented shall promptly direct the Human Resources Administrator, or Office of General Counsel if the Human Resources Administrator is the alleged harasser, to convene the full committee to coordinate an investigation. The investigation shall include interviews with all relevant persons, including but not limited to, the charging party, the alleged harasser, and witnesses. Information regarding the existence and details of the claim shall be kept as confidential as permitted by law.

(c) Within fifteen (15) business days from the date of receipt of the written complaint, the COJ HCP shall present its written findings and recommendations to the AOC Director. In the event the AOC Director is the alleged harasser, the written findings and recommendations shall be presented to the Chief Justice. The written findings and recommendations shall be based on the totality of the circumstances as identified in Section 3.02(2).

- (d) Within fifteen (15) business days from the date of receipt of the written findings and recommendations, the AOC Director, or designee, (or, if appropriate, the Chief Justice, or designee) shall issue a written decision outlining the action to be taken. This decision shall be directed to the alleged harasser and copied to the charging party and appointing authority.
 - (i) If the claim is verified, the harasser shall be subject to disciplinary action and/or immediate and appropriate corrective action pursuant to these Policies. If the harasser is an elected or appointed official, he or she shall also be referred to the appropriate official disciplinary body. The charging party shall be made whole to the extent practicable.
 - (ii) If the claim cannot be verified, immediate and appropriate action shall be taken to assure that the charging party, alleged harasser, and any witnesses are reacquainted with the Court of Justice unlawful workplace harassment policy and specifically that it is the policy of the Court of Justice to provide a work environment free of unlawful workplace harassment.
 - (iii) If the claim is patently false or without merit and the charging party is found to have intentionally brought forth a false claim or a claim without merit, the charging party shall be subject to immediate and appropriate disciplinary action pursuant to these Policies.
- (e) Within thirty (30) days of the written decision issued by the AOC Director, or designee, (or, if appropriate, the Chief Justice, or designee), the person who received the written complaint shall review the claim, findings, and action taken. Review may include discussion with the charging party, alleged harasser, and incident witnesses as to any continuing unlawful workplace harassment or conduct of a retaliatory nature. If the corrective action taken as a result of the original claim has not resolved the complaint, further action, including disciplinary action, shall be considered.

SECTION 3.03 Disability Accommodations

(1) Statement of Policy

- (a) The Court of Justice is committed to complying fully with the Americans with Disabilities Act (ADA) and the Kentucky Civil Rights Act (KCRA) which prohibit discrimination based on disability, and ensure equal opportunity in employment for qualified individuals with disabilities. The appointing authority, or his or her designee, shall process requests for reasonable accommodations and, where appropriate, provide reasonable accommodations in a prompt, fair, and efficient manner.
- (b) This policy applies with equal force to elected and appointed officials.

(2) Definitions

For the purpose of this section, the following definitions shall apply:

- (a) “Reasonable Accommodation” means modifications or adjustments to:
 - (i) a job application process that enables a qualified applicant with a disability to be considered for the position; or,
 - (ii) a work environment that enables a qualified individual with a disability to perform the essential functions of that position or enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.
- (b) “Disability” means:
 - (i) A physical or mental impairment that substantially limits one or more of an individual’s major life activities;
 - (ii) A record of such an impairment; or
 - (iii) Being regarded as having a substantially limiting impairment.
- (c) “Qualified Individual with a Disability” means an individual who satisfies the requisite skill, experience, education and other job-related requirements of the position, and can perform the essential functions of the position with or without reasonable accommodation.
- (d) “Essential Functions” means the fundamental job duties of an employment position. A function can be essential if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or, the function is specialized and the individual is hired based on his or her ability to perform it.
- (e) “Undue Hardship” means a specific accommodation would require significant difficulty or expense. Determination of undue hardship is made on a case-by-case basis, considering factors that may include, but not be limited to, the nature or cost of the accommodation needed and the impact of the accommodation on the operations of the office or agency.

(3) Reasonable Accommodation

A reasonable accommodation may be provided when:

- (a) An applicant with a disability requires an accommodation in order to be considered for employment;
- (b) An employee with a disability requires an accommodation to enable him or her to perform the essential functions of the job or to gain access to the workplace; and,
- (c) An employee with a disability requires an accommodation to enjoy equal benefits and privileges of employment.

(4) Request for Reasonable Accommodation

- (a) An employee may request a reasonable accommodation verbally or in writing from his or her supervisor or appointing authority. The appointing authority, or designee, shall submit the request and any necessary documentation to the AOC Human Resources Administrator as soon as the request is made.
- (b) To maintain accurate records, requesting employees shall confirm a verbal request for an accommodation in writing, within seven (7) business days of the verbal request. However, this is not a requirement for the initial request.

(5) Documentation

- (a) When the disability and the need for accommodation are obvious, the appointing authority, or designee, shall not seek any further medical information.
- (b) When a disability and/or need for reasonable accommodation is not obvious or otherwise known, the appointing authority, or designee, may require the requesting employee to provide medical documentation to substantiate that he or she has an ADA-covered disability. It is the requesting employee's responsibility to provide medical documentation from a licensed health care professional about his or her disability and its functional limitations.
- (c) Documentation is sufficient if it:
 - (i) Describes the nature, severity, and duration of the employee's impairment; the activity or activities that the impairment limits; and, the extent to which the impairment limits the employee's ability to perform the work activity or activities; and,
 - (ii) Substantiates the reason the requested reasonable accommodation is required.
- (d) Failure to provide appropriate documentation or to cooperate with the efforts of appointing authority, or designee, to obtain such documentation may result in denial of the reasonable accommodation.
- (e) Medical information obtained in connection with the reasonable accommodation process shall be kept confidential and placed in a separate file from the employee's personnel file.

(6) Disability Determination and Need for a Reasonable Accommodation

- (a) Before addressing the merits of the accommodation request, the AOC Human Resources Administrator shall determine whether the employee has a covered disability under the ADA that requires a reasonable accommodation.

- (b) If the employee has an ADA covered disability, then the AOC Human Resources Administrator shall forward the request and all necessary information to the AOC Director, or designee, who will then determine:
 - (i) Whether the accommodation is needed;
 - (ii) If the accommodation is needed, whether the requested accommodation enables the employee to perform the essential functions of the position;
 - (iii) If the requested accommodation is effective, whether providing the accommodation would pose an undue hardship on the operations of the office or agency;
 - (iv) If the requested accommodation imposes an undue hardship, whether there would be an alternative accommodation that would not pose an undue hardship; and,
 - (v) If there is no alternative accommodation, whether there is a vacant position, for which the employee is qualified, in which the employee may be placed, unless to do so would pose an undue hardship.

(7) Notification to Grant or Deny Accommodation Request

- (a) The AOC Director, or designee, shall notify the employee in writing of the decision and explain the reasons therefore.
- (b) If an accommodation request is granted, it may not necessarily be the accommodation requested by the employee. The AOC Director, or designee, has the ultimate discretion to choose between effective accommodations. If the accommodation cannot be provided immediately, the AOC Director, or designee, shall inform the employee of the projected time for providing the accommodation.
- (c) If an accommodation request is denied, a tenured employee who is the requesting party may appeal the decision of the AOC Director, or designee, pursuant to Section 8 of these Policies.

SECTION 3.04 Drug-Free Workplace

(1) Statement of Policy

- (a) It is the policy of the Court of Justice to provide a drug-free workplace for all employees and officials.
- (b) This policy applies with equal force to elected and appointed officials. Any official found to have violated any provisions of this Policy shall be referred to the appropriate official disciplinary body.

(2) Definitions

For the purpose of this section, the following definitions shall apply:

- (a) "Drug-Free Workplace" means the location for the performance of work as an employee or official of the Court of Justice;
- (b) A "Controlled Substance" means a controlled substance in Schedules I through V of 21 U.S.C. § 812 or KRS Chapter 218A;
- (c) A "Conviction" means the finding of guilt or imposition of sentence, or both, by any judicial body charged with the responsibility of adjudicating violations of federal or state criminal drug, alcohol, and intoxicant statutes;
- (d) "Criminal Drug, Alcohol, and Intoxicant Statute" means a federal or state criminal statute involving unlawful manufacture, distribution, dispensation, possession, or use of any controlled substance, alcohol, or other intoxicant.

(3) Violation of Policy

- (a) Employees shall be subjected to disciplinary action, up to and including drug testing and/or dismissal, for:
 - (i) Unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, alcohol, or other intoxicant in the workplace; or,
 - (ii) Inability to work efficiently and effectively because of off-duty use of a controlled substance, alcohol, or other intoxicant.
- (b) Elected or appointed officials shall be referred to the appropriate official disciplinary body for:
 - (i) Unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, alcohol, or other intoxicant in the workplace; or,
 - (ii) Inability to work efficiently and effectively because of off-duty use of a controlled substance, alcohol, or other intoxicant.

(4) Notification Provisions

- (a) As a condition of employment with the Court of Justice, any official or employee shall notify the AOC Director, or designee, if he or she is convicted of a criminal offense under KRS Chapter 218A or 21 U.S.C. § 801 et seq. for a violation occurring in the workplace. The official or employee shall submit a written notification of the criminal conviction within five (5) calendar days after imposition of sentence to the AOC Director, or designee.
- (b) Within 30 days after receiving notice from an employee of a conviction under KRS Chapter 218A or 21 U.S.C. § 801 et seq. for a violation occurring in the workplace, the conviction shall:

- (i) Constitute grounds for disciplinary action, up to and including dismissal; and/or,
 - (ii) Require the satisfactory participation in a drug abuse assistance or rehabilitation program which has been approved for such purpose by a federal, state, local health, law enforcement, or other appropriate agency.
- (c) With regard to elected or appointed officials, a conviction under KRS Chapter 218A or 21 U.S.C. § 801 et seq. for a violation occurring in the workplace shall be referred to the appropriate official disciplinary body.

(5) Drug-Free Awareness Program

The Chief Justice delegates to the AOC Director the responsibility for the implementation and good faith maintenance of the Drug-Free Workplace Awareness Program to inform employees and officials about:

- (a) Dangers of drug and alcohol abuse;
- (b) Court of Justice's policy of maintaining a drug-free workplace;
- (c) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and,
- (d) Penalties that may be imposed upon employees and officials for drug or alcohol abuse violations.

SECTION 3.05 Workplace Violence and Domestic Violence

(1) Statement of Policy

- (a) It is the policy of the Court of Justice to provide a work environment free of violence by establishing preventive measures, holding perpetrators of violence accountable, and by providing assistance and support to victims of workplace violence, including domestic violence. Violence in the work environment of the Court of Justice will not be tolerated.
- (b) Any employee found to violate this policy in the course of his or her employment may be subject to appropriate disciplinary action, up to and including dismissal.
- (c) This policy applies with equal force to elected and appointed officials. Any official found to have violated any provisions of these Policies shall be referred to the appropriate official disciplinary body.

(2) Definitions

For the purpose of this policy, the following definitions will apply:

- (a) "Workplace Violence" is defined as the attempt, threat, or act of intimidation, harassment, physical violence or domestic violence and abuse that endangers or

is likely to endanger the health and safety of Court of Justice employees, officials and the general public while in Court of Justice offices, facilities, work sites, and vehicles, or while conducting Court of Justice business. Workplace violence may be perpetrated by an official, manager, supervisor, employee, co-worker, family member, or a member of the general public.

- (b) “Domestic Violence and Abuse” is defined as physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple pursuant to KRS 403.720.

(3) Examples of Workplace Violence

Workplace violence includes, but is not limited to, the following:

- (a) Threatening to harm an official, employee, or a member of the general public;
- (b) Brandishing or displaying a weapon or an object that can be used as a weapon in a manner which would threaten, intimidate, or present a safety risk to an official, employee, or a member of the general public;
- (c) Intimidating, threatening, or directing abusive language toward another person either verbally, in writing, or by gesture;
- (d) Stalking;
- (e) Striking, slapping, or otherwise physically assaulting another person;
- (f) Using Court of Justice resources and property such as work time, phones, fax machines or e-mail to perpetrate workplace violence, including domestic violence.

(4) Reporting and Investigative Responsibilities

- (a) All officials and employees are encouraged to be alert to the possibility of violence on the part of officials, managers, supervisors, employees, former employees, and members of the general public.
- (b) Employees are responsible for notifying their appointing authority, or his/her designee, of any acts or threats of violence they have either witnessed or received. Employees are also responsible for reporting any threatening statement, harassment, or behavior they have reasonable cause to believe is a potential risk to their health and safety, or to other officials, employees, or the public. Employees may use the Court of Justice Incident Report (AOC-PT-50) to report acts or threats of violence.
- (c) The appointing authority, or designee, shall investigate all reports of violence in a prompt and confidential manner, with information released only on a need-to-know basis. The appointing authority, or designee, shall file a Court of Justice Incident Report (AOC-PT-50) of the final findings with the AOC Human Resources Administrator.

(5) Support and Protections for Victims of Workplace Violence and Domestic Violence

- (a) The appointing authority, or designee, shall work closely with victims of workplace violence, including domestic violence, to accommodate their requests and needs whenever possible and appropriate.
- (b) The appointing authority, or designee, may:
 - (i) Change the employee's work schedule or assign a different office phone number;
 - (ii) Request assistance of security personnel;
 - (iii) Discuss with the employee the possibility of a leave of absence if threats escalate and become acute;
 - (iv) Provide escort or observation for the employee when entering or leaving the workplace;
 - (v) Approve the employee's request to use leave in order to access resources such as counseling, medical treatment, shelter, or to attend court proceedings; or,
 - (vi) Limit employee information that is disclosed by phone or e-mail.

(6) Retaliation Prohibited

No official or employee of the Court of Justice shall use retaliation or reprisal against any person for reporting or corroborating violence in the workplace.

SECTION 4. Appointments, Classification & Compensation Plans

SECTION 4.01 Types of Appointments

(1) Probationary Appointment

(a) Purpose

A probationary appointment is an appointment for the purpose of observing, evaluating and determining whether an employee adequately performs the essential functions and responsibilities of a particular position in accordance with these Policies.

(b) Length of Probationary Period

- (i) The first six (6) months of service from the effective date of hire or reemployment to a tenured position and any extensions of probation as provided for in subsection (b) (ii) and (iii) of this section shall constitute a probationary period.
- (ii) If an employee who is serving a probationary period is granted leave in excess of twenty (20) working days, the employee's probationary period shall be extended for the same length of time as the granted leave to cover such absence.
- (iii) The appointing authority may extend an employee's probationary period for no longer than three (3) months should further evaluation be required.

(c) Expiration of Probationary Period

- (i) Prior to the expiration of the probationary period, the appointing authority shall determine whether to confer tenured status for a new or reemployed employee.
- (ii) Unless the appointing authority notifies the employee prior to the expiration of the probationary period that he or she is dismissed, the employee shall be deemed to have successfully completed the probationary period.
- (iii) Upon completion of probationary period, a new or reemployed employee shall attain tenured status, have the right to appeal grievances, and receive a probationary increment.
- (iv) If a new or reemployed employee does not attain tenured status before the expiration of the probationary period, the appointing authority shall comply with Section 8.07, of these Policies, regarding the dismissal of a probationary employee.

(2) Tenured or Non-Tenured Appointments

Tenured and non-tenured appointments shall include the following positions:

(a) Full-time position with benefits:

A full-time position with benefits is a position, other than a temporary position, requiring an employee to work 37.5 hours in a business week.

(b) Part-time position with benefits:

A part-time position with benefits is a position, other than a temporary position, requiring an employee to work 100 hours on a regular basis in a calendar month. The 100 hour limit may only be exceeded or reduced with prior written approval of the AOC Director, or designee.

(c) Part-time position without benefits:

A part-time position without benefits is a position, other than a temporary position, requiring an employee to work 80 hours on a regular basis in a calendar month. The 80 hour limit may only be exceeded under extraordinary circumstances and only with prior written approval of the AOC Director, or designee. The AOC Director, or designee, shall not approve an employee in a part-time position without benefits to work 100 or more hours in a calendar month.

(d) Federally funded time-limited position:

A federally funded time-limited position is a position created upon receipt of federal funding. This is a time-limited position and shall not exceed the period of time for which the specific federal funding is provided. An individual who is appointed to a federally funded time-limited position is entitled to benefits provided to non-tenured employees.

(3) Temporary Appointment

A temporary appointment is an appointment made to fill a full-time or part-time temporary position for a specified period of time not to exceed nine (9) months within a twelve (12) month period. A temporary employee is not entitled to receive benefits.

SECTION 4.02 Criminal History Record Checks

The appointing authority shall obtain appropriate record checks, from the Administrative Office of the Courts, Division of Records, on a prospective employee prior to offering employment to an individual.

SECTION 4.03 Classification Plan

- (1) The Court of Justice classification plan includes for each position a title and pay grade; description of duties and responsibilities; and, requirements relating to education and experience.
- (2) Every position shall be assigned to an appropriate classification prior to any administrative action on appointments, reclassifications, promotions, transfers, pay grade changes, or any other type of personnel or position action.
- (3) Positions that require the performance of similar duties, responsibilities, scope of discretion exercised, and qualifications shall be assigned to the same classification.

SECTION 4.04 Compensation Plan

- (1) The Court of Justice compensation plan provides pay grades for all positions listed in the classification plan. Each class of positions is assigned to a pay grade depending upon the complexities and functions of the positions in the class as outlined in the classification plan.
- (2) Pay grades are based upon the level of duties and responsibilities of position classifications, current salary rates in other sectors of employment, and the financial resources of the Court of Justice.

SECTION 4.05 Salary Schedule

- (1) The salary schedule is divided into pay grades with a minimum salary for each pay grade.
- (2) The appointing authority shall appoint a new employee at the minimum salary of the pay grade. If there are circumstances that will justify the appointment of the employee above the minimum salary of the pay grade in which his or her position has been assigned, a written request must be made to the AOC Director.

SECTION 4.06 Salary Adjustments

- (1) Probationary Increments

An employee appointed to a tenured full-time or tenured part-time position shall receive a probationary increment at the beginning of the first month following the successful completion of his or her probationary period. A tenured Court of Justice employee is entitled to only one (1) probationary increment throughout continuous Court of Justice service.

- (2) Annual Increments

- (a) Annual increments are granted based upon funding allocated by the General Assembly on a biennial basis.

- (b) All tenured employees shall receive an annual increment at the beginning of the month following completion of twelve months of continuous service since last receiving a probationary or annual increment.
- (c) All non-tenured employees shall receive an annual increment one (1) year from the date of hire.
- (d) An employee's increment date shall be postponed and recalculated for each month that any employee is on leave without pay for more than 100 hours in that month.

(3) Shift Differential

- (a) An employee who works more than one-half (.5) of the hours of his or her work shift between the hours of 4:00 p.m. and 8:00 a.m. on a regular shift assignment shall receive a five percent (5%) salary increase as a shift differential.
- (b) An employee who no longer works more than half of the hours of his or her work shift between the hours of 4:00 p.m. and 8:00 a.m. shall not receive the five percent (5%) shift differential.

(4) Merit Raises

- (a) When funds are available as certified by the AOC Director, any full-time or part-time employee is eligible for a merit increase for outstanding achievement, in addition to any other salary advancements to which he or she might be entitled, if:
 - (i) the employee's acts or ideas have resulted in significant financial savings to the Commonwealth, or to a significant improvement in services to its citizens;
 - (ii) the employee has demonstrated a sustained level of exceptional job performance;
 - (iii) the employee has assumed a significant level of additional job responsibilities and duties consistent with the assigned classification and has performed them in an exceptional manner; or,
 - (iv) the employee has acquired professional or technical skills or knowledge through attainment of a job related licensure, certification, or degree that will substantially improve job performance.
- (b) An employee is not eligible to receive a merit increase if he/she has received a merit increase within the past twenty-four months or is still in his/her probationary period.
- (c) The appointing authority, or designee, may submit a request for a merit raise for their employee(s). The appointing authority, or designee, shall provide a written justification for the request to the AOC Director.

- (d) A personnel action request for a merit raise shall only be approved by the AOC Director.

SECTION 4.07 Position or Employee Actions

(1) Establishment

Each appointing authority has a predetermined number and types of positions. These positions are established and allocated by the AOC Director. Any alteration of these positions shall be approved by the AOC Director.

(2) Change in Pay Grade

- (a) If a class of positions is assigned to a higher pay grade, employees in that class shall have their salary adjusted to, at least, the minimum salary of the new pay grade on the effective date of the change.
- (b) If a class of positions is assigned to a lower pay grade, an employee in that class shall retain his or her current salary.
- (c) A salary adjustment resulting from a change in pay grade of a class of positions shall not affect an employee's increment date.

(3) Reclassification

- (a) When a permanent and material change of the duties and responsibilities of a position occurs, the appointing authority may submit a written request to reclassify the position to the AOC Director.
- (b) A position shall be reclassified if there is an increase in the scope of discretion exercised by the employee as a result of an increase in the responsibility of the position. An increase in workload of a position may be a contributing factor for consideration in the decision to reclassify a position.
- (c) An employee who is advanced to a higher pay grade through a reclassification of his or her position shall have his or her salary raised to, at least, the minimum salary of the higher pay grade.
- (d) An employee who is placed in a lower pay grade through reclassification of his or her position shall retain the same salary received prior to reclassification.
- (e) A salary adjustment resulting from a reclassification action shall not affect an employee's increment date.

(4) Promotion

- (a) A promotion is a change in grade level of an employee to a higher grade level that carries a greater scope of discretion or responsibility.

- (b) An employee who is promoted shall serve a review period. The first six (6) months of service from the effective date of the promotion and any extensions as provided for in subsection (b) (i-ii) of this section shall constitute a review period.
 - (i) If a promoted employee serving a review period is granted leave in excess of twenty (20) business days during this period, the employee's review period shall be extended for the same length of time as the granted leave to cover such absence.
 - (ii) The appointing authority may extend a promoted employee's review period for no longer than three (3) months should further evaluation be required.
- (c) Unless the appointing authority notifies the promoted employee prior to the expiration of the review period that he or she shall not be retained in the promoted position, the employee shall be deemed to have successfully completed the review period.
- (d) If the appointing authority decides not to retain the employee in a promoted position, the appointing authority shall notify the employee in writing prior to the expiration of the review period. The employee shall be returned to his or her former position and grade level, if available. The rules applicable to layoffs apply if there are no vacancies in the employee's former position.
- (e) During or prior to the expiration of the review period, a promoted employee may submit a written request to the appointing authority to return to his or her former position. The appointing authority may grant the employee's request to return to his or her former position and grade level. The rules applicable to layoffs apply if there are no vacancies in the employee's former position or grade level.
- (f) A promoted employee:
 - (i) shall have his or her salary raised to, at least, the minimum salary of the pay grade for the class of the new position; or,
 - (ii) may receive a maximum ten percent (10%) salary increase over the employee's previous salary if approved by the AOC Director.
- (g) A salary adjustment resulting from a promotion shall not affect an employee's increment date.

(5) Demotion

- (a) A demotion is a change in grade level of an employee to a lower grade that carries less discretion and responsibility.
- (b) An employee who is demoted:
 - (i) shall have his or her salary reduced to a comparable percentage above the minimum salary of the new pay grade of the demoted position; or,

- (ii) may retain the salary received prior to demotion if authorized by the AOC Director.

- (c) A salary adjustment resulting from a demotion shall not affect an employee's increment date.

(6) Reversion

- (a) The salary of an employee who is reverted to his or her former position while serving a review period shall be adjusted to:

- (i) the salary received in his or her former position before the promotion; and,

- (ii) all salary advancements and adjustments which would have been awarded if the employee had remained in his or her former position.

- (b) A salary adjustment resulting from a reversion to former position shall not affect an employee's increment date.

(7) Transfer

- (a) A transfer is the movement of any employee from one position to another without a change in grade.

- (b) An employee who is transferred shall serve a review period. The first six (6) months of service from the effective date of the transfer and any extensions as provide for in subsection (b)(i-ii) of this section shall constitute a review period.

- (i) If a transferred employee who is serving a review period is granted leave in excess of twenty (20) business days during this period, the employee's review period shall be extended for the same length of time as the granted leave to cover such absence.

- (ii) The appointing authority may extend a transferred employee's review period for no longer than three (3) months should further evaluation be required.

- (c) Unless the appointing authority notifies the transferred employee prior to the expiration of the review period that he or she shall not be retained in the position, the employee shall be deemed to have successfully completed the review period.

- (d) If the appointing authority decides not to retain the employee in a transferred position, the appointing authority shall notify the employee in writing prior to the expiration of the review period. The employee shall be returned to his or her former position and grade level, if available. The rules applicable to layoffs apply if there are no vacancies in the employee's former position or grade level.

- (e) During or prior to the expiration of the review period, a transferred employee may submit a written request to the appointing authority to return to his or her former position. The appointing authority may grant the employee's request to return to

his or her former position and grade level. The rules applicable to layoffs apply if there are no vacancies in the employee's former position or grade level.

(8) Assignment to Special Duty

- (a) When the services of an employee are needed within the Court of Justice, other than the duties to which the employee is regularly assigned, the employee may be assigned to those duties for a period not to exceed twelve (12) months with prior written approval of the AOC Director. For assignment to special duty, the appointing authority may waive the minimum requirements.
- (b) An employee who is approved for special duty detail to a position in a higher pay grade may receive up to a five percent (5%) salary increase during the period of detail. Upon expiration of the special duty assignment, the salary of the employee shall be adjusted to:
 - (i) the salary received prior to detail to special duty; and,
 - (ii) all salary advancements and adjustments which would have been awarded if the employee had remained in his or her position prior to the detail to special duty.
- (c) An employee who is approved for special duty detail to a position in the same or lower pay grade shall retain the same salary received prior to the detail.
- (d) A salary adjustment resulting from a detail to special duty shall not affect an employee's increment date.

(9) Abolishment of Position

When a position has been abolished due to technological innovations, the AOC Director shall promulgate a plan before any action is taken with respect to the status of an employee(s).

SECTION 5. Workplace Regulations

SECTION 5.01 Minimum Age of Employment

The Court of Justice shall conform to applicable federal and state labor laws, rules and regulations with regard to the minimum age requirements for hiring employees.

SECTION 5.02 Hours of Business

- (1) Business office hours will vary in accordance with specific offices and work assignments. The appointing authority, or his or her designee, shall discuss exact hours of business and work schedules with each employee.
- (2) Employees shall not work seven (7) consecutive days in any business week unless the employee receives prior written authorization from the appointing authority. The business week for the Court of Justice shall be Sunday through Saturday.
- (3) The required business week for full-time employees is 37.5 hours.
- (4) The required work hours for employees in a part-time position with benefits is a minimum of 100 hours on a regular basis in a calendar month.
- (5) The required work hours for employees in a part-time position without benefits is 80 hours on a regular basis in a calendar month. The 80 hour limit may only be exceeded under extraordinary circumstances and only with prior written approval of the AOC Director. The AOC Director shall not approve an employee in a part-time position without benefits to work 100 or more hours in a calendar month.
- (6) All employees shall be given a ten (10) minute break during each four (4) hours worked or the minimum period of time prescribed by law.

SECTION 5.03 Compensatory Leave

- (1) The appointing authority shall comply with the compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8, and Kentucky Wages and Hours, KRS Chapter 337. An employee who works in excess of the prescribed hours of duty shall receive compensatory leave subject to the provisions of the FLSA, the Kentucky Revised Statutes and these Policies. An employee may work hours in excess of the prescribed hours of duty if authorized, in writing, by the appointing authority.
- (2) An employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall receive compensatory leave:
 - (a) on an hour-for-hour basis for hours worked in excess of 37.5 hours and up to forty (40) hours during the business week; and,
 - (b) one and one-half (1.5) hours for every hour worked during the business week in excess of forty (40) hours.

- (c) however, no employee shall be permitted to work in excess of twelve (12) hours in one calendar day without prior written approval of the appointing authority, or designee.
- (3) Employees who work any hours on consecutive days of the defined work week (Sunday through Saturday) shall receive compensatory leave at one and one-half (1.5) hours for every hour worked on the seventh (7th) day.
- (4) The maximum amount of compensatory leave that can be accumulated by an employee is 240 hours.
 - (a) The appointing authority shall not direct or authorize an employee who has accumulated 240 hours of compensatory leave to work one (1) or more hours in excess of the prescribed hours of duty.
 - (b) The AOC Director has sole authority to approve the earning of compensatory hours in excess of the 240 hour maximum.
 - (c) The appointing authority shall require an employee who has accumulated 240 hours of compensatory leave to utilize his or her compensatory leave at specified times.
- (5) In the event that the appointing authority fails to comply with the requirements of this section, the appointing authority shall be reported to and subject to disciplinary action by the appropriate disciplinary body.
- (6) The appointing authority shall grant use of compensatory leave in accordance with operating requirements and, insofar as practicable, with the requests of employees. However, approval shall be granted by the appointing authority, or designee, prior to the use of compensatory leave.
- (7) An employee who accumulates 120 or more hours of compensatory leave shall take steps to reduce accumulated compensatory leave and shall be required to use compensatory leave in lieu of annual leave when leave request is granted. Employees that reach compensatory balances exceeding 180 hours of accumulated leave may be required by the appointing authority to reduce their balances by taking time off when practicable. Designation of approved leave as compensatory leave shall be made at the time the leave is used.
- (8) Employees shall be paid for unused compensatory leave which has been accumulated upon separation from employment with the Court of Justice.

SECTION 5.04 Payroll

- (1) The Court of Justice is required by law to make specific deductions from employee paychecks. The mandatory deductions are federal, state and local taxes; FICA; and, state retirement.

- (2) Employees may request additional deductions from their paychecks (i.e. credit union, group insurance plan). Employees shall submit a written request for additional payroll deductions to the AOC Payroll Supervisor.
- (3) Employee pay dates are the 15th and 30th of each month unless the 15th or 30th fall on a holiday or weekend.
- (4) Employees hired after September 1, 2004, are required to enroll in the Direct Deposit Program.

SECTION 5.05 Timesheets

- (1) Each full-time employee shall complete and sign a timesheet upon the end of each payroll month for his or her appointing authority's review and approval.
- (2) Each part-time, temporary, and/or hourly-waged employee shall complete and sign a timesheet on the 15th and the last day of each month for his or her appointing authority's review and approval.
- (3) The appointing authority, or designee, shall review and submit upon approval, the timesheet of each employee to the AOC Division of Personnel.
- (4) Elected officials, the Director of the AOC, and principal administrative officials and special administrative assistants of the Chief Justice shall not be subject to this section, nor shall these individuals accrue leave benefit pursuant to Sections 5.03, 6.02, 7.02, 7.03, 7.05, and 7.06 of these Policies.

SECTION 5.06 Inclement Weather Days

- (1) Administrative Office of the Courts
 - (a) The Administrative Office of the Courts (AOC) shall not close due to inclement weather.
 - (b) Any AOC employee who is unable to come to work, delayed in arriving, or needs leave early due to inclement weather shall use either annual or compensatory leave to fulfill his or her 37.5 hour business week requirement.
- (2) Courthouses and Circuit Clerks' Offices
 - (a) The chief circuit judge, after conferring with the chief district judge and the circuit clerk(s), shall decide whether court offices will be closed in their circuit. However, nothing in this subsection shall preclude an individual judge within a circuit from holding his/her court open in instances of inclement weather or other extraordinary circumstances.
 - (b) The circuit clerk shall decide whether the circuit clerk's office will be closed in similar circumstances as above-stated. With regard to staffing of the court, if a court remains open, the circuit clerk shall have the sole responsibility for providing court staff from his or her office.

- (c) If the appointing authority closes the court or circuit clerk's office due to inclement weather:
 - (i) The appointing authority shall notify the AOC Division of Personnel of the closure; and,
 - (ii) The employees of that court or office shall indicate on their timesheet the use of an inclement weather day for which the employee shall be compensated.

SECTION 5.07 Employee Evaluation

- (1) For each year of employment, the appointing authority, or designee, shall prepare a written evaluation of each employee, and provide the employee with a copy of same. Elected officials are strongly encouraged to perform such annual evaluations.
- (2) The appointing authority, or designee, shall review and discuss the evaluation with the employee and the supervisor. The employee shall sign the evaluation and may provide a written response.
- (3) The appointing authority, or designee, shall forward a signed copy of the evaluation and employee's written response, if any, to the AOC Personnel Administrator for the employee's official personnel file.

SECTION 5.08 Personnel Files

- (1) General
 - (a) The personnel records of the Court of Justice shall be public records and shall be open to public inspection, as provided in these Policies.
 - (b) The personnel records shall be maintained by the AOC Division of Personnel.
 - (i) Each elected official and employee shall have a personnel file.
 - (ii) The official personnel file shall be maintained by the AOC Division of Personnel.
 - (iii) Personnel files shall not be removed from the AOC Division of Personnel unless ordered by a court of competent jurisdiction.
- (2) Official Personnel Files
 - (a) Each employee's personnel file shall include, but not be limited to, his or her name; address; application and/or resume; positions held; classifications; rates of compensation; all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards.

- (b) Medical records supplied to or received by the AOC Division of Personnel shall be maintained in a separate file from the other personnel records of an employee as required by federal law. The dissemination of any medical records shall be in strict compliance with applicable law.
- (c) The appointing authority shall provide the AOC Division of Personnel with a copy of any disciplinary documentation and the employee's written response, if any, for the employee's personnel file.
- (d) The appointing authority, or his or her designee, shall have access to the personnel files of the employees and applicants for employment in his or her office or agency.
- (e) An employee or applicant shall have the right to examine and to copy his or her entire personnel file or application. An employee may comment in writing on any item in his or her personnel file. Such comments shall be made a part of his or her personnel file and shall be attached to the specific record or document to which they pertain.

(3) Inspection Procedures

- (a) All requests to inspect personnel files shall be in writing and submitted to the AOC Personnel Administrator. The written request shall identify with reasonable particularity the documents the requesting party wishes to inspect.
- (b) The following information contained in personnel files shall be subject to inspection only upon order of a court of competent jurisdiction:
 - (i) information of a personal nature where public disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (ii) information which disclosure is prohibited by federal law or regulation; and,
 - (iii) information for which disclosure is prohibited or restricted or otherwise made confidential by the statutes and court rules of this Commonwealth.
- (c) The AOC Personnel Administrator shall only release the following information for inspection about any current or former Court of Justice employee or official:
 - (i) name;
 - (ii) dates of employment, including date of hire and separation, if any;
 - (iii) title of position(s) held;
 - (iv) classification(s);
 - (v) rate(s) of compensation;
 - (vi) final disciplinary action(s); and,

- (vii) commendations and awards.
- (d) The inspection of personnel files shall in all cases be made in the presence of the AOC Personnel Administrator, or designee, at the Administrative Office of the Courts during regular business hours.
- (e) The AOC Division of Personnel shall provide a written notice to employees or officials of any third party request to inspect their personnel file.

SECTION 6. Fringe Benefits

SECTION 6.01 Fringe Benefits

- (1) Employees in a full-time position and elected officials of the Court of Justice participate in the fringe benefit programs provided by law for state employees and officials for all departments and branches of Kentucky government. The major fringe benefits are: state holidays, retirement systems, life insurance, health insurance, unemployment insurance, social security, and workers' compensation insurance.
- (2) Employees in a part-time position with benefits as authorized by the AOC Director and the Chief Justice shall participate in state holidays, retirement systems, life insurance, health insurance, unemployment insurance, social security, and workers' compensation insurance.
- (3) Employees in a part-time position without benefits are ineligible to participate in state holidays, retirement systems, life insurance, and health insurance.

SECTION 6.02 Holidays

- (1) The following days are adopted by the Court of Justice as holidays:

*New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
*Thanksgiving Day	Fourth Thursday in November
*Christmas Day	December 25
Spring Holiday	One half day, to be designated
Presidential Election Day	First Tuesday after the first Monday in November (when applicable)

*An extra day each is allotted for Thanksgiving, Christmas and New Year's.

- (2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when one of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday.
- (3) Each full-time employee is entitled to 7.5 hours holiday leave for each full day adopted by the Court of Justice as a holiday.
- (4) Each part-time employee with benefits is entitled to five (5) hours of holiday leave for each full day adopted by the Court of Justice as a holiday.
- (5) When an employee is scheduled to work on a holiday, he or she shall receive holiday leave on an hour for hour basis for each hour worked on the holiday.

- (6) The appointing authority shall grant use of holiday leave in accordance with operating requirements and, insofar as practicable, with the requests of employees.
- (7) Employees shall be paid for unused holiday leave they have accumulated upon separation from employment with the Court of Justice in the same manner as annual leave.

SECTION 6.03 Retirement

- (1) Employees who wish to retire shall notify the appointing authority in writing at least fourteen (14) calendar days prior to the effective date of retirement. Resignation of elected officials is governed by KRS 63.010.
- (2) It is the policy of the Court of Justice that having sought and achieved retirement status from state government, a retiree should not be employed by the Court of Justice in any position or capacity during any period of time post-retirement. Upon the recommendation of the AOC Director and the approval of the Chief Justice, an exception to this policy may be granted where the retiree seeking employment within the Court of Justice possesses special skills particular to that individual which relate directly to the work of the individual and which will benefit the Court of Justice or for purposes which are deemed to be in the best interest of the Court of Justice.

SECTION 6.04 Health Insurance

- (1) All employees and elected officials who receive benefits as noted in Section 6.01 shall be eligible to participate in the health insurance plan offered by the Commonwealth.
- (2) Once an employee or elected official is covered under a health insurance plan offered by the Court of Justice, they may qualify for COBRA benefits. COBRA allows an employee or official to extend health insurance coverage for him/herself or any qualified beneficiary, if any of the following qualifying events occur:
 - (a) Termination of employment except for gross misconduct;
 - (b) Reduction of hours worked by the employee;
 - (c) Death of a covered employee;
 - (d) Divorce or legal separation from the covered employee;
 - (e) Dependent child ceases to be an eligible dependent;
 - (f) Covered persons deemed totally disabled by the Social Security Administration.
- (3) If any of the qualifying events occur, excluding death and termination, the employee or elected official shall contact the AOC Division of Personnel within sixty (60) days. In the event of death or termination the required information shall be mailed to the appropriate party.

SECTION 6.05 Workers' Compensation

(1) Eligibility for Program Services

Employees and elected officials of the Court of Justice are eligible to participate in the state's self-insured Workers' Compensation Program, as provided in KRS Chapter 342.

(2) Benefits

(a) Medical Expenses

Required medical expenses for services rendered by hospitals, doctors, and for prescription medications due to a job-related injury or illness are paid subject to approval of a claim.

(b) Absences Due to Job-Related Injury or Illness

- (i)** A percentage of the employee's average weekly wages shall be paid when he or she is unable to work for an extended period due to a job-related injury or illness.
- (ii)** Compensation shall not be payable for the first seven (7) working days of disability unless disability continues in excess of fourteen (14) calendar days, in which case compensation shall be allowed from the first day of disability.

(c) Use of Accumulated Sick, Annual, or Compensatory Leave

- (i)** In cases of absences due to illness or injury for which Workers' Compensation benefits are received, an employee may elect to use accumulated sick, annual, or compensatory leave in order to maintain regular full salary.
- (ii)** In cases of absence due to illness or injury for which Workers' Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.
- (iii)** If an employee is eligible for leave restoration under Workers' Compensation benefits, the employee shall sign over any Workers' Compensation benefits to the Administrative Office of the Courts and have leave restored before being eligible to receive leave under this section.

(3) Notification Procedures

(a) Employee Responsibility

An employee who has sustained an on-the-job injury or work-related illness must notify his or her supervisor as soon as the employee is physically able to do so.

(b) Appointing Authority Responsibilities

- (i) The appointing authority, or designee, shall obtain all pertinent information about an employee's work-related injury or illness and immediately report the injury by telephone to the Workers' Compensation Program Office. If the injury occurs during the evening hours or over the weekend, the injury shall be reported by telephone at the beginning of the next working day.
- (ii) The appointing authority, or designee, shall complete the First Report of Injury Form (IA-1), providing specific information about the injury. The form shall be submitted to the AOC Division of Personnel within three (3) working days from the date of notification of an injury or illness. Failure to comply may result in a fine of \$100 to \$1000 for each occurrence.

(4) Report of Medical Status Form (WCF-5)

(a) Employee Responsibilities

- (i) If the employee intends to seek medical treatment, the employee shall request the Report of Medical Status Form (WCF-5) from the appointing authority, or designee, who shall be responsible for completing the appropriate section of the form as described in Subsection 4(b)(i).
- (ii) The employee shall request his or her physician to complete the appropriate section of the form and the employee shall then submit same to his or her appointing authority, or designee.

(b) Appointing Authority Responsibilities

- (i) The appointing authority, or designee, shall be responsible for completing the first section of the form when so requested by an employee for a work-related injury or illness.
- (ii) After the employee returns the form as described in Subsection 4(a)(ii), the appointing authority, or designee, shall submit the completed form to the AOC Division of Personnel.

SECTION 6.06 Kentucky Employee Assistance Program

(1) General

- (a) The Kentucky Employee Assistance Program (KEAP) is available to employees to assist with problems that affect their job performance, personal life, or general well-being.
- (b) The KEAP services are free of charge to all employees and their families for information, assessment, or referral. The Court of Justice shall not be liable for

counseling or treatment costs incurred except for those provided through health benefits.

- (c) Employee involvement in the KEAP shall remain confidential as permitted by state and federal law, unless the employee provides a written authorization to permit the release of specific information to a specifically identified person.
- (d) The KEAP may be contacted at (502) 564-5788 or 1-800-445-5327.

(2) Eligibility for Services

- (a) Any employee whose job performance is (or may be) adversely affected by personal problems, may initiate a request for confidential personal or family services from the KEAP.
- (b) Any employee obtaining services from the KEAP shall do so without discrimination or reprisal from the appointing authority.
- (c) An employee's participation in the KEAP shall not preclude the appointing authority from taking disciplinary or corrective action as needed to resolve unprofessional behavior or job performance deficiencies.

(3) Referrals

- (a) The appointing authority, or designee, may extend to an employee an offer of assistance through the KEAP if the employee's behavior or work performance is unacceptable or deteriorating.
- (b) Any employee's participation in services offered by the KEAP shall be voluntary and confidential.
- (c) Any employee shall be allowed to contact the KEAP for assessment or referral during working hours only with prior approval from his or her appointing authority, or designee.
- (d) An employee's participation in counseling or treatment, upon referral by the KEAP, shall take place on the employee's own time or while on approved leave.

SECTION 6.07 Court of Justice Employee Mediation Program

(1) General

The Court of Justice Employee Mediation Program (CEMP) exists to provide dispute resolution assistance to Court of Justice employees, appointed officials, and appointing authority .

(2) Eligibility for Services

- (a) An employee, appointed official or appointing authority may request mediation services through the CEMP to resolve workplace disputes and issues.

- (b) Employees and appointed officials shall have access to mediation services without coercion, discrimination, or reprisal.
- (c) Participation by all parties involved in mediation shall be voluntary.
- (d) Participation in mediation shall not require the use of leave time if the employee or appointed official has obtained prior approval from his or her appointing authority, or designee.
- (e) Participation in mediation shall not affect the right to appeal or filing timeframes for a grievance pursuant to Sections 8.07 - 8.08 of these Policies.
- (f) Non-participation in mediation shall not be construed as a refusal to cooperate in resolution of a dispute.

(3) Mediation Session Procedures

- (a) To participate in the CEMP, the complainant must complete a "Mediation Request," form, and submit same to the AOC Department of Mediation and Family Court Services.
- (b) The mediation session shall be scheduled by the CEMP within ten (10) business days of receipt of the respondent's confirmation of participation. The ten (10) day time period may be extended with written approval by all parties.
- (c) Each party and his or her appointing authority shall receive written notice containing the date, time, and place for the mediation session. The appointing authority shall grant the employee leave to attend the mediation session in accordance with operating requirements of the respective office/department and, insofar as practicable, as requested by the CEMP.
- (d) The parties shall receive the name of the certified mediator with the written notice of the mediation session. Any party may request another mediator if the party perceives that the appointed mediator has a conflict of interest. A party requesting an alternate mediator must submit a written request to the Department of Mediation and Family Court Services within two (2) business days of the receipt of the mediation notice. The name of an alternate mediator shall be provided within five (5) business days following receipt of the written request.
- (e) The mediation session shall be conducted by:
 - (i) a mediator from the CEMP Mediator Pool who does not work in the parties' employing office or department, or,
 - (ii) a mediator from the state government mediator pool if a mediator from the CEMP is not available.
- (f) The parties shall ensure that those having the authority to approve and implement the final mediation agreement are present at the mediation session.

- (g) All parties shall sign the Agreement to Mediate Form prior to commencement of the mediation session.
- (h) The final mediation agreement shall be prepared on the Final Mediation Agreement Form. The agreement shall be dated, signed by the mediator and the parties, and specify the provisions of the resolution.
- (i) The CEMP shall have the authority to:
 - (i) decline a request for mediation for reasonable cause;
 - (ii) issue a continuance of a mediation session; or,
 - (iii) terminate a mediation session.

(4) Mediation Session and Documents

- (a) The content of the mediation session shall remain confidential as permitted by state and federal law.
- (b) All offers, promises, and statements made in the course of the mediation are inadmissible in any subsequent hearing or litigation of the dispute.
- (c) Mediators shall not be subject to participation in any subsequent proceedings regarding the mediated matter.
- (d) All contents of the official mediation file, including any notes, the final agreement(s), and other documents shall be the property of the CEMP.
- (e) All notes taken during any mediation session shall be surrendered to the mediator at the conclusion of the session. The mediator shall destroy all notes upon the conclusion of the mediation.

(5) Certification of Mediators in the CEMP Mediator Pool

- (a) To be a certified mediator an individual must complete the following minimum requirements:
 - (i) 40 hours of general mediation training provided by the CEMP, the Kentucky Employees Mediation Program, or a program approved by the Department of Mediation and Family Court Services;
 - (ii) 6 hours of continuing education per year approved by the Department of Mediation and Family Court Services;
 - (iii) 20 hours of mediation experience as the mediator or co-mediator; and,
 - (iv) compliance with the Standards of Professional Conduct established by the CEMP.

- (b) The CEMP shall revoke certification of any mediator who:
 - (i) has failed to meet the requirements in Subsection (a) of this section; or
 - (ii) has violated the Standards of Professional Conduct.
- (c) A mediator employed by the Court of Justice and serving as a mediator for the CEMP shall do so in his or her capacity as a Court of Justice employee and shall not receive additional compensation or be required to utilize personal leave time to conduct the CEMP mediation session(s) and will be subject to the Court of Justice travel regulations.

SECTION 7. Leave Policies

SECTION 7.01 Months of Service

In computing months of service for the purpose of earning annual or sick leave, only those months for which an employee has worked or been in pay status for no less than 100 hours in a month shall be eligible for said computation.

SECTION 7.02 Annual Leave

(1) Accrual of Annual Leave for Full-Time Employees

Each full-time employee shall accumulate annual leave at the following rates, subject to the following requirements:

Months (Years) of Service	Annual Leave Hours Accrued
0-60 months (0-5 years)	7.5 hours per month
61-120 months (5-10 years)	9.4 hours per month
121-180 months (10-15 years)	11.25 hours per month
181-240 months (15-20 years)	13.2 hours per month
241 months (20 years) and over	15.0 hours per month

(2) Accrual of Annual Leave for Part-Time Employees with Benefits

Each part-time employee with benefits (100 hours per month on a regular basis) as authorized by the AOC Director shall accrue annual leave at the following rates, subject to the following requirements:

Months (Years) of Service	Annual Leave Hours Accrued
0-60 months (0-5 years)	5.0 hours per month
61-120 months (5-10 years)	6.25 hours per month
121-180 months (10-15 years)	7.5 hours per month
181-240 months (15-20 years)	9.4 hours per month
241 months (20 years) and over	10.7 hours per month

(3) Retention of Accumulated Annual Leave

- (a) Annual leave may be accumulated and carried forward from one calendar year to the next, not to exceed the following maximum amounts:

Months (Years) of Service	Maximum Amount
0-60 months (0-5 years)	225 hours
61-120 months (5-10 years)	277.5 hours
121-180 months (10-15 years)	337.5 hours
181-240 months (15-20 years)	390 hours
241 months (20 years) and over	450 hours

- (b) Accumulated annual leave in excess of the above maximum amounts shall be converted to sick leave at the end of each calendar year.

(4) Use of Accumulated Annual Leave

- (a) Approval must be granted by the appointing authority, or designee, prior to the use of annual leave.
- (b) Use of accumulated annual leave shall be granted by the appointing authority, or designee, in accordance with operating requirements and, insofar as practicable, as requested by the employee. However, if an employee has accumulated 120 or more hours of compensatory leave at the time the approved leave is used, the approved annual leave request shall be designated as compensatory leave.
- (c) Absence due to sickness, injury, or disability which exceeds an employee's earned sick leave balance, may be charged against annual leave at the request of the employee.
- (d) An employee shall utilize annual leave for any absence on a day in which the employee would otherwise work and receive pay.
- (e) Absence for a fraction of a working day that is being utilized as annual leave shall be reported in units of one-quarter (.25) hour.

(5) Payment of Unused Accumulated Annual Leave

- (a) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts set forth in the table under Subsection (3)(a) of this Section, when separated from employment by proper resignation, layoff, dismissal, or retirement.
- (b) Upon the death of an employee, his or her estate shall be entitled to payment for the unused portion of the employee's accumulated annual leave.

SECTION 7.03 Sick Leave

(1) Accrual of Sick Leave

- (a) Each permanent full-time employee shall accrue sick leave at the rate of 7.5 hours per month. Permanent full-time employees must have worked or been in pay status for no less than 100 hours in a month in order to accrue sick leave.
- (b) Each permanent part-time employee with benefits (100 hours per month on a regular basis) as authorized by the Director shall accrue sick leave at the rate of five (5) hours per month. Permanent part-time employee with benefits (100 hours per month) must have worked or been in pay status for a minimum of 100 hours of the month to qualify for sick leave.
- (c) Permanent full-time employees, and part-time employees with benefits (100 hours per month), who complete ten (10) years of total service with the state shall be

credited with an additional 75 hours of sick leave upon the first day of the month following the completion of one hundred twenty (120) months of service. The total service must be verified in writing before the leave shall be credited to the employee's record. If the employee has moved from a permanent full-time position to a part-time position with benefits (100 hours a month on a regular basis) the time served in the permanent full-time position is creditable toward cumulative months of service for the purposes of the above-stated 75 hours of sick leave credit.

- (d) A permanent full-time employee who completes 240 months of total service with the state shall be credited with another 75 additional hours of sick leave upon the first day of the month following the completion of 240 months of service.
- (e) Sick leave may be accumulated with no set maximum.

(2) Retention of Sick Leave

- (a) An employee transferring to the Court of Justice from another branch of state government shall be credited with his or her accumulated sick leave upon submission of the appropriate documentation.
- (b) Upon retirement, an employee shall be credited for accumulated sick leave.
- (c) Upon resignation, layoff, or dismissal, sick leave shall not be paid out.
- (d) Former employees who are reinstated or rehired shall have their accumulated unused sick leave balances reinstated.

(3) Use of Sick Leave

- (a) Except in cases of emergency or unforeseen illness, an employee shall request approval for sick leave, i.e. medical, dental, or optical examination, in advance.
- (b) In all cases of an emergency or unforeseen illness, an employee shall notify his or her immediate supervisor, or designee. Failure to do so in a reasonable period of time may be grounds for denial of sick leave for the period of absence.
- (c) An appointing authority shall grant the use of accrued sick leave when an employee:
 - (i) is unable to work due to medical, dental, or optical examination or treatment; or,
 - (ii) is disabled by sickness or injury. The appointing authority may require the employee to provide a doctor's statement certifying the employee's inability to perform his or her duties for the days or hours sick leave is requested;
 - (iii) is required to care for, or transport a member of his or her family in need of medical attention for a reasonable period of time. The appointing authority

may require the employee to provide a doctor's statement certifying the employee's need to care for a family member;

- (iv) would jeopardize the health of him/herself or others at his or her work station because of exposure to a contagious disease or demonstration of behavior that might endanger the employee or others;
- (v) has lost by death a family member. Use of accrued sick leave under this subparagraph is limited to three (3) business days or a reasonable extension at the discretion of the appointing authority.
- (d) Upon returning from sick leave, the appointing authority shall return the employee to his or her former position.
- (e) Absence for a fraction of a business day that is being utilized as sick leave shall be reported in units of one-quarter (.25) hours.
- (f) In cases of absence due to illness or injury for which Workers' Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

(4) Sick Leave Sharing

(a) General

- (i) Sick leave may be transferred from one state employee to another, including employees from another branch of state government. All salary and wage payments made to an employee while on sick leave donated under this section shall be made by the agency employing the person receiving the leave.
- (ii) If an employee is eligible for leave restoration under Workers' Compensation benefits, the employee shall sign over any Workers' Compensation benefits to the Administrative Office of the Courts and have leave restored before being eligible to receive leave under this section.
- (iii) Requests for transferring and receiving sick leave shall be made on official forms furnished by the AOC Division of Personnel. The AOC Division of Personnel shall maintain records of sick leave donations between employees and the utilization of donated sick leave.
- (iv) While an employee is on sick leave under this section, the employee shall be deemed an employee on paid leave and shall receive the same treatment with respect to salary, wages and employee benefits.
- (v) The appointing authority may require an employee receiving sick leave sharing to provide periodic medical certifications from his or her treating physician attesting to the employee's continued need for sick leave due to inability to perform the essential functions of his or her duties with or without a reasonable accommodation.

- (vi) No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's right to voluntarily contribute sick leave when authorized under this section. For the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.
- (b) Responsibilities of employee requesting sick leave sharing
- (i) The employee shall complete and submit Recipient Form to the appointing authority for review and approval. Upon approval and signature, the appointing authority shall submit said form to the AOC Personnel Administrator for review.
 - (ii) The AOC Personnel Administrator shall send out a notification of request.
 - (iii) An employee may receive a maximum of 1950 hours per qualifying event under this section.
 - (iv) The employee shall return to work upon termination of the approved sick leave sharing period; however, prior to return, the employee shall provide a medical certification to the appointing authority.
 - (v) Upon receipt of the medical certification allowing the employee to return to work full time, any remaining balance of donated sick time shall be returned to the donor.
- (c) Request to receive sick leave sharing
- An appointing authority shall permit an employee to receive sick leave under this section if:
- (i) the employee or a member of the employee's family suffers from a medically certified illness, injury, impairment, or physical or mental condition which has caused the employee to be on leave for at least ten (10) consecutive working days;
 - (ii) the employee's need for absence and use of leave are certified by a licensed practicing physician;
 - (iii) the employee has exhausted his or her accumulated sick, annual, holiday and compensatory leave; and
 - (iv) the employee has complied with these Policies regarding the use of sick leave.
- (d) Request to donate accumulated sick leave

- (i) An employee who has accumulated 75 or more hours of sick leave may donate 7.5 or more hours of his or her sick leave to another employee who is authorized to receive sick leave under Subsection (c) of this Section.
- (ii) The employee shall complete and submit a Donor Form to the appointing authority for review and approval. Upon approval and signature, the appointing authority shall forward the signed form to the AOC Division of Personnel.
- (iii) The employee shall not request to donate an amount of leave that would result in reducing his or her sick leave balance to less than 75 hours.
- (iv) The donated sick leave shall be subtracted from the donating employee's sick leave balance in the month of donation.

(5) Advancement of emergency sick leave with pay

- (a) If a full-time employee exhausts his or her accumulated sick, annual, holiday and compensatory leave due to an illness, the employee may request in writing, to the appointing authority, an advance of leave with pay the employee would expect to earn under Sections 7.02 and 7.03 during the three (3) months following his or her illness, not to exceed a total of five (5) working days.
- (b) When an employee who has used advanced emergency sick leave recovers from his or her illness and returns to work, any sick and/or annual leave shall not be banked by the employee, nor shall any sick and/or annual leave be granted, until such time as the advanced leave is recaptured.
- (c) An employee advanced emergency sick leave who resigns prior to restoring the amount advanced shall be liable to the Court of Justice for the advanced wages equal to the amount of leave unearned.

(6) Catastrophic illness sick leave

- (a) A tenured employee who has exhausted all accumulated sick, annual, holiday, and compensatory leave and has been employed by the Court of Justice for a period of at least six (6) consecutive months immediately preceding the date on which he or she became unable to work may request catastrophic illness sick leave. The employee shall submit a written request and any required medical documentation to his or her appointing authority.
- (b) Upon recommendation of the requesting employee's appointing authority and with the approval of the AOC Director, catastrophic illness sick leave with pay may be extended for a period not to exceed six (6) consecutive calendar weeks.
- (c) Upon recommendation of the requesting employee's appointing authority and the AOC Director, and upon approval of the Chief Justice, catastrophic illness sick leave with pay may be extended for a period not to exceed six (6) consecutive calendar months.

- (d) The appointing authority may require an employee requesting sick leave due to catastrophic illness, to provide periodic medical certifications from his or her treating physician attesting to the employee's continued need for sick leave due to inability to perform the essential functions of his or her duties with or without a reasonable accommodation.
- (e) The employee shall not accrue annual and sick leave during sick leave for catastrophic illness.
- (f) If the employee terminates employment with the Court of Justice by reason other than death within two (2) years from the first day of approved leave under this section, the appointing authority may require that he or she forfeit seventy-five (75) hours of paid leave as repayment (consisting of any combination of annual or compensatory leave at the employee's discretion). In the event that all accrued, annual and compensatory leave is exhausted, the appointing authority may require the employee to forfeit the last seventy-five (75) hours of regular compensation immediately preceding the effective date of resignation as repayment.

(7) Statement of Intent Regarding Use of Sick Leave

- (a) The aforementioned sick leave provisions shall be available to an employee for utilization strictly in the following order:
 - (i) Accumulated sick leave;
 - (ii) Sick leave sharing;
 - (iii) Advancement of emergency sick leave with pay;
 - (iv) Catastrophic illness sick leave; and,
 - (v) Family medical leave under Family Medical Leave Act pursuant to Section 7.04 of these Policies; and
- (b) Any deviations from the above-referenced order of utilization shall be approved in writing by the AOC Director and provided to the AOC Personnel Administrator for the employee's personnel file.

SECTION 7.04 Family Medical Leave

(1) General

- (a) This section shall be construed in a manner consistent with the Family and Medical Leave Act of 1993, 20 U.S.C., 2601, et. seq. and 29 CFR Part 825.
- (b) An appointing authority shall notify employees of their rights under the Family and Medical Leave Act.
- (c) All documents relating to family leave shall be maintained in a file separate from an employee's personnel file and shall be confidential.

(2) Employee Eligibility

- (a) The Family and Medical Leave Act applies to employees who have:
 - (i) been employed for no less than twelve (12) months; and,
 - (ii) worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of leave.
- (b) An employee is eligible for Family and Medical Leave if:
 - (i) a serious health condition of the employee makes the employee temporarily unable to perform the essential functions of his/her position;
 - (ii) the birth of a child of an employee, adoption of a child by an employee, or the placement of a foster child under an agreement with an agency of the Commonwealth or other state government;
 - (iii) the care of a newborn child of the employee, adoption of a child by the employee, or placement of a foster child with the employee, within one (1) year of the birth, adoption or placement; or,
 - (iv) the care of an employee's spouse, parent, child or other family member who has a serious medical condition.
- (c) A medical condition shall be deemed a serious medical condition under the following circumstances:
 - (i) the employee or family member as defined in 2(b)(iv) is required to receive inpatient care or continuing treatment by a health provider; and
 - (ii) the medical condition renders the employee incapable of performing the duties of his/her position.
- (d) An eligible employee is entitled to twelve (12) weeks of unpaid Family and Medical Leave during a twelve (12) month period. Each twelve (12) month period shall be established from the date family medical leave is first designated.
- (e) A week of family medical leave shall be the amount of time an employee normally works each week.
- (f) For part-time employees, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the family leave shall be used to calculate the employee's normal business week.

(3) Request for family medical leave

- (a) An employee shall provide the appointing authority a request for family medical leave at least thirty (30) calendar days prior to the date the family medical leave is

to begin if the leave is foreseeable based on expected child birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member.

- (b) An employee shall provide the appointing authority a request for family medical leave as soon as practicable if the thirty (30) calendar days prior request is not practicable due to a medical emergency or change of circumstances.
- (c) An employee shall request family medical leave by completing the Application for Family Medical Leave and submitting the application to his or her appointing authority. The appointing authority must forward said form to the AOC Personnel Administrator.
- (d) An employee who requests family medical leave for a serious medical condition shall supply a certification by a health care provider, utilizing the Certification of Health Care Provider Form which states the following:
 - (i) the employee is in need of care; or
 - (ii) the employee is needed to care for a family member; or
 - (iii) the presence of the employee is necessary to the immediate family member in need of care.
- (e) If an employee requests intermittent family medical leave, or leave on a reduced leave schedule, due to a serious medical condition of the employee or family member, the employee shall supply a Certification of Health Care Provider Form from a licensed health care provider that states:
 - (i) leave is medically necessary; and,
 - (ii) the expected duration and schedule of the leave.
- (f) A licensed health care provider shall be a:
 - (i) doctor of medicine;
 - (ii) doctor of osteopathy;
 - (iii) podiatrist;
 - (iv) dentist;
 - (v) clinical psychologist;
 - (vi) licensed clinical social worker;
 - (vii) optometrist;

- (viii) chiropractor;
- (ix) nurse practitioner;
- (x) nurse midwife; or
- (xi) certified Christian Science practitioner.

(4) Approval of family medical leave

An employee who has requested family medical leave shall be notified of the family leave designation, in writing from the AOC Personnel Administrator, within two (2) business days of the date on which the request was made.

(5) Benefits during family medical leave

- (a) Any combination of working days, paid leave, or family medical leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.
- (b) An employee shall utilize his or her family medical leave days consecutively if unable to work and electing to use family medical leave as the sole qualification for state contributions for life insurance and health benefits.
- (c) An employee who has exhausted paid leave and family medical leave and remains unable to work for more than 100 hours in the month, may only continue group health and life insurance benefits for the following month by paying the total cost of the state's contribution and employee's (self) contributions for such benefits.
- (d) An employee on family medical leave shall be responsible for the employee's share of contributions for life insurance and health benefits. The contributions shall be due at the same time the contributions would be made by payroll deduction.
- (e) An employee shall be granted a thirty (30) calendar day grace period to make an employee contribution for life insurance and health benefits and shall be notified by the AOC Division of Personnel, in writing, fifteen (15) calendar days before any benefits expire.
- (f) If the employee does not make the contribution within the thirty (30) calendar day grace period, the employee's life insurance and health benefits shall cease on the date the grace period ends. Life insurance and health benefits shall be restored thirty (30) calendar days following the employee's return to work.
- (g) Benefits shall be restored to the same level of coverage that existed when leave commenced, effective the first day of the employee's return.

(6) Return from family medical leave

- (a) At the conclusion of the family medical leave, the employee must complete and return the Notice of Intention to Return from Leave Form to the appointing authority. The appointing authority shall forward said form to the AOC Personnel Administrator.
- (b) The employee shall be returned to the same job the employee held before going on family medical leave. The employee shall be returned to the same shift or equivalent schedule.

SECTION 7.05 Voting Leave

- (1) Employees who are registered to vote are entitled to four (4) hours of paid leave to vote or execute an absentee ballot if applied for. Such absence shall not be charged against an employee's accumulated leave.
- (2) The appointing authority may specify the hours during which an employee may be absent for either purpose.
- (3) Any employee who exercises his or her right to leave for the purpose of voting under this section shall be subject to disciplinary action if:
 - (a) the employee is not registered to vote; or,
 - (b) the employee fails to cast his or her vote.
- (4) If an appointing authority grants prior approval, an employee may receive compensatory time, in lieu of voting leave, if the employee voted, or applied for and executed an absentee ballot.

SECTION 7.06 Blood Donation Leave

- (1) An employee who, during regular business hours, donates blood at a designated blood drive approved by the appointing authority and certified by the Food and Drug Administration shall receive four (4) hours of compensatory time for donating blood.
- (2) In order to receive the compensatory time, an employee shall schedule the time of the donation with his or her appointing authority prior to the donation.
- (3) An employee who is deferred from donating blood shall not:
 - (a) be charged leave time for time spent in attempted donation; and,
 - (b) qualify for the remainder of blood donation leave.
- (4) In order to be credited for the four (4) hours of compensatory time, the employee must attach the donor acceptance certificate to his or her timesheet for the month in which the blood donation was given.
- (5) The appointing authority may designate the number of times per annum an employee may donate blood in exchange for the 4 hours of compensatory time.

SECTION 7.07 Court Leave and Jury Duty Leave

- (1) An employee shall be entitled to leave of absence from duties without loss of time or pay for that amount of time necessary to comply with subpoenas relating to his or her duties with the COJ by any federal or state court, or to serve as a juror in any judicial proceeding.
- (2) Court and jury duty leave shall include necessary travel time.
- (3) If the employee is relieved from duty as a juror or witness during his or her normal working hours, the employee shall return to work.

SECTION 7.08 Military Leave

- (1) Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, the U.S. Air Force National Guard or the Kentucky National Guard shall be relieved from his or her Court of Justice duties upon request, to serve under military orders for training duty. Training duty shall be served without loss of his or her regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged against the employee's accrued leave. Absence in excess of this amount will be charged as annual leave or leave without pay.
- (2) The appointing authority shall require a copy of the orders requiring the attendance of an employee when granting military leave. The appointing authority shall forward a copy of the orders to the AOC Personnel Administrator.
- (3) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period not to exceed six (6) years. All accumulated annual and compensatory leave may be paid in a lump sum, at the request of the employee, upon receiving said leave.
- (4) If an employee is called to active duty during a national emergency, military leave shall be granted and the employee shall have the opportunity to receive a salary which compensates him or her for any difference between military pay and his or her regular salary. The employee shall also have the opportunity to continue medical insurance benefits during this period.
- (5) When an employee has given notice of his or her availability to resume his or her duties with the Court of Justice and the notice is within ninety (90) days after being relieved from military duty, or from hospitalization or treatment which has continued after discharge for a period of not more than twelve (12) months, the appointing authority shall return the employee to his or her former position or to a position for which he or she is qualified and which is as similar in requisite skill, experience, education, and other position-related requirements as circumstances permit.
 - (a) If the employee is physically qualified to perform the duties of his or her former position, he/she shall be restored to such position if it exists and is not held by an

employee with greater seniority. Otherwise, he or she shall be assigned to a position of like-seniority, status, and pay.

- (b) If the employee is not qualified to perform the duties of his or her former position by reason of disability sustained during such military service, he/she shall be placed in another position, the duties of which he or she is qualified to perform and which will provide the employee with like-seniority, status, and pay or the nearest approximation consistent with the circumstances of the case.
- (c) A former employee seeking restoration who has been rejected or otherwise penalized, must file an appeal, as provided in Section 8 of these Policies, within thirty (30) calendar days after notification of such rejection or penalization by an appointing authority.

SECTION 7.09 Special Leave

(1) Courthouses and Circuit Clerks' Offices

- (a) The Courts of the Commonwealth are considered open for business every day except as noted in the holiday schedule in Section 6.02; however, extraordinary circumstances may render use of court facilities impractical thus necessitating that an office be closed.
- (b) The chief circuit judge, after conferring with the chief district judge and the circuit clerk(s), shall decide whether court offices will be closed in their circuit. However, nothing in this subsection shall preclude an individual judge, within a circuit, from holding his/her court open in instances of inclement weather or other extraordinary circumstances.
- (c) The circuit clerk shall decide whether the circuit clerk's office will be closed in similar circumstances as above-stated. With regard to staffing of the court, if a court remains open, the circuit clerk shall have the sole responsibility for providing court staff from his or her office.
- (d) Such leave will be reported on the timesheet as a special leave day for which employees shall be paid.

(2) Administrative Office of the Courts

- (a) AOC offices and personnel are not affected by a decision of a judge or circuit clerk to close local court operations. Special leave may only be granted to employees due to closure of an AOC office by the Director, or designee, and shall be obtained in advance and in writing prior to use thereof.
- (b) Such leave will be reported on the time sheet as a special leave day for which employees shall be paid.

SECTION 7.10 Leave without Pay

- (1) An employee may request leave without pay if he or she has exhausted all accumulated annual, holiday, and compensatory leave. The employee shall apply in writing to the appointing authority, or designee, for a request to take leave without pay.
- (2) The decision to approve a request for leave without pay is solely within the discretion of the appointing authority, or designee.
- (3) The appointing authority shall submit a Personnel Action Request (PAR) reflecting approval of leave without pay fourteen (14) calendar days prior to the effective date.
- (4) If an employee is granted leave without pay, the employee shall be obligated to return to duty no later than the last day for which leave without pay has been authorized.
 - (a) If the employee cannot return to work at the expiration of the approved leave without pay periods, the employee shall immediately notify the appointing authority, or designee.
 - (b) Unless the appointing authority, or designee, has extended the leave without pay request, failure to report at the expiration of authorized leave without pay shall be considered a resignation from employment, any contrary provisions in Section 7.04 notwithstanding.
- (5) For each month that an employee is on leave without pay status for more than 100 hours in that month, the employee's annual or probationary increment will be postponed one full month from the employee's ordinary increment date.
- (6) Leave without pay shall be not be authorized in excess of twelve (12) months.

SECTION 8. Separations, Disciplinary Actions, and Appeal

SECTION 8.01 Resignation

- (1) Employees who desire to resign their positions in the Court of Justice shall notify the appointing authority in writing at least fourteen (14) calendar days prior to the effective date of the resignation. Resignation of elected officials is governed by KRS 63.010.
- (2) Employees who do not so notify the appointing authority may be required by the appointing authority to forfeit payment of up to 105 hours of their accrued annual and/or holiday leave.

SECTION 8.02 Absence Without Leave

- (1) An employee who is absent from duty without prior approval shall report the reason for absence to his/her appointing authority, or designee.
- (2) An unauthorized or unreported absence shall:
 - (a) be considered an absence without leave;
 - (b) be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act; and,
 - (c) constitute grounds for disciplinary action, up to and including dismissal.
- (3) An employee who has been absent without leave, or without appropriate notice to his or her appointing authority, or designee, for a period of five (5) business days shall be considered to have resigned from employment with the Court of Justice.

SECTION 8.03 Layoffs

- (1) Seniority, work performance, employee evaluations, workplace conduct, qualifications, and type of appointment shall be considered in determining the order of layoffs.
 - (a) In the same county and job classification, temporary, federally funded time-limited and probationary employees shall be laid off before employees in tenured full-time or part-time positions.
 - (b) For purposes of layoff, "probationary employee" does not include an employee serving a review period as a result of a promotion.
- (2) It shall be a violation of these Policies to coerce employees who may be, or who are, subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with these Policies relating thereto and layoffs shall not be utilized as a method of dismissal.
- (3) An appointing authority may lay off an employee in the Court of Justice whenever deemed necessary by reason of a shortage of funds or work.

- (a) The appointing authority shall provide the following information to the employee in writing at least fourteen (14) calendar days prior to the effective date of the layoff:
 - (i) the effective date of the layoff;
 - (ii) reason(s) for the layoff; and,
 - (iii) right to appeal if the employee serves in a tenured position.
 - (b) The appointing authority shall conduct a personal interview with each laid off employee to explain the reemployment rights available to that employee.
 - (c) The appointing authority shall attempt to place the employee in another position for which the employee is qualified prior to the effective date of layoff.
- (4) An employee with tenure may appeal his/her layoff in accordance with Section 8.06 of these Policies if the employee believes his or her layoff to be in violation of Section 8.03(1) above.
- (5) A tenured employee who has been laid off, or who has received notice of layoff shall have first consideration in the filling of any vacancy in a tenured position for which he/she is qualified in any Court of Justice office statewide. The employee shall have first refusal rights in the filling of any vacancy in a tenured position, excluding those to be filled by promotion, demotion, or transfer, for a period of one (1) year from the date of layoff, providing such employee advises the AOC Human Resources Administrator in writing that he/she is seeking reemployment under this section.
- (a) A tenured employee in the layoff category shall indicate in writing to the AOC Human Resources Administrator that he or she desires reemployment. The employee shall complete an updated application, specifically identifying area(s) of availability for work duty, minimum salary requirements, and minimum pay grade.
 - (b) A laid-off tenured employee shall meet the requirements for the job classification in a vacant position.
 - (c) If more than one (1) laid-off tenured employee seeks reemployment in any job classification, the AOC Human Resources Administrator shall verify all qualified laid-off tenured employees.
 - (d) Employee applicants shall not be considered for a vacancy until such time that all qualified laid-off employee applicants, with status, as outlined above, have been given full consideration. The AOC Human Resources Administrator must have received written objection(s) to the reemployment of a laid-off tenured employee prior to an appointing authority's consideration of any other applicants for the vacancy.
 - (e) An employee reemployed under this section or one who declines a bona fide offer waives his or her rights of first refusal under this section.

SECTION 8.04 Disciplinary Actions

(1) Disciplinary Probation

- (a) Unsatisfactory job performance and/or any substantial deviation from good behavior by an employee may result in disciplinary probation. Disciplinary probation shall consist of a period of regular employment during which the employee is re-evaluated by the appointing authority for the purpose of determining whether the employment deficiencies can be, and are, corrected.
- (b) The appointing authority may place an employee on disciplinary probation for a specified period not to exceed six (6) months.
- (c) The appointing authority shall send the employee a letter notifying him/her of the disciplinary probation. The letter shall contain:
 - (i) the effective date and length of the disciplinary probation period; and,
 - (ii) the employee's conduct and/or work performance deficiencies that have resulted in the disciplinary probation and instructions on means to correct such deficiencies; and,
 - (iii) a statement notifying the employee that failure to correct stated deficiencies and/or additional workplace violations or further deficiencies during the probationary period may result in dismissal from employment.
- (d) The appointing authority shall forward a copy of all documentation relating to disciplinary probation to the AOC Human Resources Administrator to be placed in the employee's personnel file.
- (e) If the employee is dismissed prior to the expiration of the disciplinary probation period the appeal provisions of Section 8.08 shall apply.

(2) Suspension

- (a) An appointing authority may suspend any employee without pay for a disciplinary cause.
- (b) The appointing authority shall send the employee a letter notifying him/her of the suspension. The letter shall contain:
 - (i) the effective date of the suspension and length of the suspension period; and,
 - (ii) the employee's conduct and/or work performance deficiencies that have resulted in the suspension and instructions on means to correct such deficiencies; and,

- (iii) a statement notifying the employee that failure to correct stated deficiencies and/or additional workplace violations or further deficiencies may result in dismissal from employment.
 - (c) The appointing authority shall forward a copy of all documentation relating to a suspension to the AOC Human Resources Administrator to be placed in the employee's personnel file.
 - (d) If the employee successfully appeals a suspension action, the employee shall be reinstated with full pay for all working days suspended without pay.
- (3) Administrative Leave
- (a) The appointing authority, or designee, may place an employee on administrative leave for a period not to exceed five (5) working days for the purpose of removing the employee from the work place due to disciplinary or other work-related cause(s), and for the purpose of determining if any further action shall be taken.
 - (b) Administrative leave in excess of five (5) working days shall be approved by the AOC Director.
 - (c) If the administrative leave is with pay, the employee shall not use any accrued leave.
 - (d) If administrative leave is without pay, the appointing authority shall submit a Personnel Action Request (PAR) to the Human Resources Administrator reflecting the effective dates of leave without pay, which PAR shall be placed in the employee's personnel file.

SECTION 8.05 Right to Appeal Disciplinary Actions

All tenured employees of the Court of Justice shall have the right to appeal any disciplinary action(s) taken against him or her. A disciplinary action includes but is not limited to a letter of reprimand, suspension, and disciplinary probation.

SECTION 8.06 Grievance and Appeal Procedures From Disciplinary Actions or Layoffs

- (1) General
- (a) A grievance is a complaint filed by an employee which concerns some aspect of his or her conditions of employment over which the appointing authority has control.
 - (b) A tenured employee who believes that he or she has been subjected to unfair or unjust treatment concerning his or her conditions of employment may file a grievance in accordance with this section.
 - (c) An employee utilizing this procedure shall be entitled to file a grievance without interference, coercion, discrimination, or reprisal.

(2) Grievance From Disciplinary Actions

- (a) A grievance shall be filed, in writing, within five (5) business days of an occurrence or the employee's knowledge of an occurrence. The employee shall submit a written grievance to the appointing authority, or designee.
- (b) The appointing authority, or designee, shall make every effort to resolve the grievance.
- (c) The appointing authority, or designee, shall notify the employee in writing, within five (5) business days of receipt of the written grievance, as to his or her decision relating to the grievance.
- (d) If the employee is dissatisfied with the decision of the appointing authority, or designee, the grievance may be appealed to the AOC Hearing Officer.

(3) Appeal to the AOC Hearing Officer

- (a) The employee shall submit a written appeal to the Human Resources Administrator of his/her dissatisfaction with the decision within five (5) business days following receipt of the decision of the appointing authority, or designee.
- (b) The written appeal shall contain details relating to the grievance and the corrective action desired. The employee may attach additional information or documentation to the written appeal. The Human Resources Administrator shall within ten (10) business days make the determination as to whether the grievance is the result of a disciplinary action; and, if so, the Human Resources Administrator shall immediately refer the matter to the AOC Hearing Officer.
- (c) The AOC Hearing Officer (Hearing Officer) shall conduct an arbitration, within fifteen (15) business days.
- (d) The employee and the appointing authority, or designee, may present supporting documents to be evaluated by the Hearing Officer. In order to be considered by the Hearing Officer, a copy of all supporting documents shall be submitted no later than five (5) business days prior to the arbitration.
- (e) The Hearing Officer shall make every effort to assist the parties in developing a satisfactory resolution to the dispute.
- (f) In the event that the parties are unable to reach a resolution, the Hearing Officer shall file his or her written recommendation(s) with the AOC Director within ten (10) business days following the arbitration.
- (g) The AOC Director, or designee, shall render a written decision within fifteen (15) business days of receipt of the Hearing Officer's recommendation(s), which decision shall be final. A copy of the AOC Director's final decision shall be copied to all parties, the Hearing Officer, and the Human Resources Administrator.

SECTION 8.07 Dismissal During Probationary Period

- (1) An employee serving a probationary period may be dismissed at any time prior to the expiration of the probationary period, by the appointing authority, without the right of appeal or hearing.
- (2) The appointing authority shall notify the employee of dismissal in writing, by certified mail, return receipt requested, or by hand delivery with a witness.
- (3) The appointing authority shall forward a copy of all documentation relating to a dismissal to the AOC Human Resources Administrator to be placed in the employee's personnel file.

SECTION 8.08 Dismissal and Notification of Dismissal

- (1) Whenever the appointing authority has reasonable evidence that an appointed official or employee, under his/her management, is guilty of any substantial deviation from good behavior and/or satisfactory performance of duties, the appointing authority may, in the exercise of sound discretion, dismiss the offending appointed official or employee.
- (2) Grounds for dismissal include, but are not limited to, the following:
 - (a) Conviction by a court of any misdemeanor or felony having a connection with the performance of the employee's duties.
 - (b) Refusal or inability to perform reasonable and legal duties required by the appointing authority.
 - (c) Frequently recurring absences from duty without reasonable evidence to support good cause for such absences.
 - (d) Refusal or inability to follow the prescribed procedures for handling money and/or maintaining records as required by the Court of Justice.
 - (e) Consumption of intoxicants during working hours and/or the inability to work efficiently and effectively because of off-duty consumption of intoxicants.
 - (f) Repeated instances of rudeness during working hours to fellow employees, supervisors, or the general public.
 - (g) Noncompliance with these Policies or internal written office policies.
- (3) The appointing authority shall comply with the following procedures when dismissing a tenured employee for cause:
 - (a) The appointing authority shall send the employee a letter of dismissal by certified mail, return receipt requested, or by hand delivery, with a witness. The letter of dismissal shall contain:

- (i) specific reasons for dismissal which shall specify the violations related to performance of duties, workplace conduct, or unlawful activity; and,
 - (ii) a statement notifying the employee that he/ she shall have five (5) business days from the date of receipt of the letter, not including the date of receipt to request a meeting, with or without counsel, to respond to the appointing authority.
- (b) If the employee requests a meeting with the appointing authority within the above-specified time, the appointing authority shall schedule an informal meeting with the employee within five (5) working days of receipt of the request, not including the date of receipt, unless another date, not to exceed 30 calendar days, is agreed upon, in writing, by both the appointing authority and the employee.
- (c) The appointing authority shall notify the employee, within five (5) business days following the informal meeting, in writing, by certified mail, return receipt requested, of his/her decision. If the appointing authority reverses the dismissal, the matter shall be deemed closed. If the appointing authority affirms the prior decision to dismiss, the letter shall contain the following information:
 - (i) the effective date of dismissal; and,
 - (ii) the specific reasons for the dismissal action as described in subsection (3)(a)(i); and,
 - (iii) the employee's right to appeal within five (5) business days from receipt of the affirmation of dismissal, not including the date of receipt, pursuant to the Sections 8.09 and 8.10 of these Policies.
- (d) If the employee is dissatisfied with the decision of the appointing authority, the employee shall provide a written appeal to the AOC Human Resources Administrator.
- (e) Failure to comply with the provisions of this subsection shall render any notification of dismissal invalid. The employee shall remain on the payroll until such time as proper notice is given.
- (f) The appointing authority shall forward a copy of all documentation relating to a dismissal to the AOC Human Resources Administrator to be placed in the employee's personnel file.

SECTION 8.09 Right to Appeal From Dismissal

A tenured employee of the Court of Justice who is dissatisfied with the decision to dismiss by the appointing authority, or designee, as described in Section 8.08 above, shall have the right to appeal said decision to the Court of Justice Dismissal Appeal Board.

SECTION 8.10 Procedures for the Court of Justice Dismissal Appeal Board

(1) Court of Justice Dismissal Appeal Board

The Dismissal Appeal Board (Board) shall be composed of three (3) Court of Justice employees and three (3) persons not employed by the Court of Justice. The Chief Justice shall appoint the Board members from a list of nominees submitted by AOC Human Resources Administrator. The list of nominees shall be compiled in compliance with the internal policy established by the Division of Personnel. The Board shall sit in a panel of three (3). The first three (3) Board members indicating the availability and willingness to sit on a case panel shall be assigned to that panel. The Board members assigned to a panel shall select among themselves who shall serve as panel chairperson for the duration of that proceeding.

(2) Appeal Procedures

- (a) The employee shall submit a written appeal to the AOC Human Resources Administrator of his/her decision to appeal the dismissal within five (5) business days following receipt of the decision of the appointing authority, or designee, to dismiss.
- (b) The written appeal shall contain details relating to the dismissal and why the dismissal should be reversed. The employee may attach additional information or documentation to the written appeal.
- (c) The Board shall conduct a hearing within thirty (30) calendar days of receipt of the employee's appeal, unless another date, not to exceed an additional fourteen (14) calendar days, is agreed upon, in writing, by both the appointing authority, or designee, and the employee.
 - (i) The Board shall have the authority to:
 - 1. administer oaths;
 - 2. subpoena witnesses; and,
 - 3. conduct investigations and other related fact-finding efforts, and interview witnesses.
 - (ii) The Board shall make an accurate and complete record of the hearing.
- (d) The employee and the appointing authority, or designee, may present witnesses and supporting documents to be evaluated by the Board.
- (e) No later than five (5) business days prior to the hearing, each party shall provide to the Board and the other party a list of witnesses and documents to be introduced at the hearing.

- (f) The Board shall file its written recommendation(s) with the AOC Director within ten (10) business days following the hearing.
- (g) The AOC Director, or designee, shall render a written decision within fifteen (15) business days of receipt of the Board's recommendation(s). A copy of the AOC Director's decision shall be copied to all parties and the Human Resources Administrator.
- (h) If the employee or the appointing authority is dissatisfied with the decision of the AOC Director, an appeal may be filed in the appropriate court.